



ADMINISTRATIVE PLAN

FOR THE HOUSING AUTHORITY OF CLACKAMAS COUNTY

HOUSING CHOICE VOUCHER PROGRAM

Effective: January 2024

Approved by the HA Board of Commissioners: October 2023

PHA Annual Plan Submitted to HUD: October 2023

Copyright 2023 by Nan McKay & Associates, Inc.

All rights reserved

Permission to reprint granted only to the Public Housing Authority or Housing Agency that has purchased this plan from Nan McKay & Associates, Inc. This document may not be reprinted or distributed to any other person or entity other than the purchasing agency without the express written permission of Nan McKay & Associates, Inc.

Administrative Plan -Table of Contents

Introduction

ABOUT THE REFERENCES CITED IN THE MODEL ADMINISTRATIVE PLAN

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

| | | |
|-----------|---|------|
| PART I: | THE PHA..... | 1-1 |
| | 1-I.A. Overview..... | 1-1 |
| | 1-I.B. Organization and Structure of the PHA..... | 1-2 |
| | 1-I.C. PHA Mission | 1-2 |
| | 1-I.D. The PHA’s Programs (Moving to Work Status)..... | 1-2 |
| | 1-I.E. The PHA’s Commitment to Ethics and Service | 1-3 |
| PART II: | THE HOUSING CHOICE VOUCHER (HCV) PROGRAM..... | 1-7 |
| | 1-II.A. Overview and History of the Program..... | 1-7 |
| | 1-II.B. HCV Program Basics..... | 1-8 |
| | 1-II.C. The HCV Partnerships | 1-8 |
| | The HCV Relationships:..... | 1-9 |
| | What Does HUD Do? | 1-9 |
| | What Does HACC Do?..... | 1-10 |
| | What Does the Owner Do? | 1-10 |
| | What Does the Family Do?..... | 1-11 |
| | 1-II.D. Applicable Regulations..... | 1-11 |
| PART III: | THE HCV ADMINISTRATIVE PLAN..... | 1-12 |
| | 1-III.A. Overview and Purpose of the Plan..... | 1-13 |
| | 1-III.B. Contents of the Plan (24CFR 982.54)..... | 1-13 |
| | Mandatory vs. Discretionary Policy | 1-13 |
| | 1-III.C. Organization of the Plan | 1-14 |
| | 1-III.D. Updating and Revising the Plan | 1-14 |

Administrative Plan -Table of Contents

**Chapter 2
FAIR HOUSING AND EQUAL OPPORTUNITY**

| | | |
|--------------|--|------|
| PART I: | NONDISCRIMINATION..... | 2-1 |
| | 2-I.A. Overview..... | 2-1 |
| | 2-I.B. Nondiscrimination | 2-2 |
| | Providing Information to Families and Owners | 2-3 |
| | Discrimination Complaints..... | 2-3 |
| PART II: | POLICIES RELATED TO PERSONS WITH DISABILITIES..... | 2-5 |
| | 2-II.A. Overview..... | 2-5 |
| | 2-II.B. Definition of Reasonable Accommodation | 2-5 |
| | Types of Reasonable Accommodations..... | 2-5 |
| | 2-II.C. Request for an Accommodation | 2-6 |
| | 2-II.D. Verification of Disability..... | 2-6 |
| | 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, Notice PIH 2010-26]..... | 2-7 |
| | 2-II.F. Program Accessibility for Persons with Hearing or Vision Impairments | 2-8 |
| | 2-II.G. Physical Accessibility..... | 2-9 |
| | 2-II.H. Denial or Termination of Assistance..... | 2-11 |
| PART III: | IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)..... | 2-11 |
| | 2-III.A. Overview..... | 2-11 |
| | 2-III.B. Oral Interpretation | 2-12 |
| | 2-III.C. Written Translation..... | 2-12 |
| | 2-III.D. Implementation Plan..... | 2-12 |
| Exhibit 2-1: | Definition of a Person with a Disability Under Federal Civil Rights Laws [24 CFR Parts 8.3, and 100.201]..... | 2-13 |

Administrative Plan -Table of Contents

Chapter 3 ELIGIBILITY

| | | |
|---------|---|------|
| PART I: | DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS..... | 3-1 |
| 3-I.A. | Overview..... | 3-2 |
| 3-I.B. | Family and Household [24 CFR 982.201(c); FR Notice 02/03/12; Notice PIH 2014-20]..... | 3-2 |
| | Family | 3-2 |
| | Household..... | 3-2 |
| 3-I.C. | Family Breakup and Remaining Member of Tenant Family..... | 3-3 |
| | Family Breakup [24 CFR 982.315] | 3-3 |
| | Remaining Member of a Tenant Family [24 CFR 5.403] | 3-4 |
| 3-I.D. | Head of Household [24 CFR 5.504(b)] | 3-5 |
| 3-I.E. | Spouse, Cohead, and Other Adult | 3-5 |
| 3-I.F. | Dependent [24 CFR 5.603]..... | 3-5 |
| | Joint Custody of Dependents..... | 3-5 |
| 3-I.G. | Full-Time Student [24 CFR 5.603, HVC GB, p. 5-29] | 3-6 |
| 3-I.H. | Elderly and Near-Elderly Persons, and Elderly Family [24 CFR 5.100 and 5.403, FR Notice 02/03/12]..... | 3-6 |
| | Elderly Persons | 3-6 |
| | Near-Elderly Persons | 3-6 |
| | Elderly Family | 3-6 |
| 3-I.I. | Persons with Disabilities and Disabled Family [24 CFR 5.403, FR Notice 02/03/12] | 3-7 |
| | Persons with Disabilities..... | 3-7 |
| | Disabled Family..... | 3-7 |
| 3-I.J. | Guests [24 CFR 5.100] | 3-8 |
| 3-I.K. | Foster Children and Foster Adults..... | 3-8 |
| 3-I.L. | Absent Family Members..... | 3-9 |
| | Definitions of Temporarily and Permanently Absent..... | 3-9 |
| | Absent Students | 3-9 |
| | Absences Due to Placement in Foster Care [24 CFR 5.403]..... | 3-10 |
| | Absent Head, Spouse, or Cohead | 3-10 |
| | Family Members Permanently Confined for Medical Reasons [HCV GB, p. 5-22] | 3-10 |
| | Return of Permanently Absent Family Members | 3-10 |
| 3-I.M. | Live-In Aide..... | 3-11 |

Administrative Plan -Table of Contents

| | | |
|-----------|--|------|
| PART II: | BASIC ELIGIBILITY CRITERIA..... | 3-13 |
| 3-II.A. | Income Eligibility and Targeting..... | 3-13 |
| | Income Limits..... | 3-13 |
| | Definitions of the Income Limits [24 CFR 5.603(b)]..... | 3-13 |
| | Using Income Limits for Eligibility [24 CFR 982.201]..... | 3-13 |
| | Using Income Limits for Targeting [24 CFR 982.201]..... | 3-14 |
| 3-II.B. | Citizenship or Eligible Immigration Status [24 CFR 5, Subpart E]..... | 3-14 |
| | Declaration [24 CFR 5.508]..... | 3-14 |
| | Mixed Families..... | 3-16 |
| | Ineligible Families [24 CFR 5.514(d), (e), and (f)]..... | 3-16 |
| | Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]..... | 3-16 |
| 3-II.C. | Social Security Numbers [24 CFR 5.216 and 5.218, Notice PIH 2012-10]..... | 3-17 |
| 3-II.D. | Family Consent to Release of Information [24 CFR 5.230; HCV GB, p. 5-13]..... | 3-17 |
| 3-II.E. | Students Enrolled In Institutions of Higher Education [24 CFR 5.612, FR Notice 4/10/06, FR Notice 9/21/16]..... | 3-17 |
| | Definitions..... | 3-18 |
| | Determining Student Eligibility..... | 3-22 |
| PART III: | DENIAL OF ASSISTANCE..... | 3-23 |
| 3-III.A. | Overview..... | 3-23 |
| | Forms of Denial [24 CFR 982.552(a)(2); HCV GB, p. 5-35]..... | 3-23 |
| | Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), 24 CFR 5.2005(b)]..... | 3-23 |
| 3-III.B. | Mandatory Denial of Assistance [24 CFR 982.553(a)]..... | 3-23 |
| 3-III.C. | Other Permitted Reasons for Denial of Assistance..... | 3-24 |
| | Criminal Activity [24 CFR 982.553]..... | 3-25 |
| | Previous Behavior in Assisted Housing [24 CFR 982.552(c)]..... | 3-26 |
| 3-III.D. | Screening..... | 3-27 |
| | Screening for Eligibility..... | 3-27 |
| | Screening for Suitability as a Tenant [24 CFR 982.307]..... | 3-28 |
| 3-III.E. | Criteria for Deciding to Deny Assistance..... | 3-28 |
| | Evidence [24 CFR 982.553(c)]..... | 3-28 |
| | Consideration of Circumstances [24 CFR 982.552(c)(2)]..... | 3-29 |
| | Removal of a Family Member's Name from the Application..... | 3-30 |
| | Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]..... | 3-30 |
| 3-III.F. | Notice of Eligibility or Denial..... | 3-30 |

Administrative Plan -Table of Contents

- 3-III.G. Prohibition Against Denial of Assistance to Victims of Domestic
Violence, Dating Violence, Sexual Assault, and Stalking..... 3-31
 - Notification 3-31
 - Documentation..... 3-33

- Exhibit 3-1: Detailed Definitions Related to Disabilities 3-33
 - Person with Disabilities [24 CFR 5.403] 3-33
 - Individual with Handicaps [24 CFR 8.3]..... 3-34

- Exhibit 3-2: Definition of Institution of Higher Education [20 U.S.C 1001 and 1002] 3-36
 - 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] 3-39

Administrative Plan -Table of Contents

Chapter 4

APPLICATIONS, WAITING LIST AND TENANT SELECTION

| | | |
|-----------|--|------|
| PART I: | THE APPLICATION PROCESS | 4-1 |
| 4-I.A. | Overview..... | 4-2 |
| 4-I.B. | Applying for Assistance [HCV GB, pp. 4-11 – 4-16, Notice PIH 2009-36]..... | 4-2 |
| 4-I.C. | Accessibility of the Application Process | 4-2 |
| | Elderly and Disabled Populations [24 CFR 8 and HCV GB, pp. 4-11 – 4-13] | 4-2 |
| | Limited English Proficiency | 4-3 |
| 4-I.D. | Placement on the Waiting List..... | 4-3 |
| PART II: | MANAGING THE WAITING LIST..... | 4-3 |
| 4-II.A. | Overview..... | 4-3 |
| 4-II.B. | Organization of the Waiting List [24 CFR 982.204 and 205] | 4-3 |
| 4-II.C. | Opening and Closing the Waiting List [24 CFR 982.206] | 4-5 |
| | Closing the Waiting List..... | 4-5 |
| | Reopening the Waiting List..... | 4-6 |
| 4-II.D. | Family Outreach [HCV GB, pp. 4-2 to 4-4]..... | 4-6 |
| 4-II.E. | Reporting Changes in Family Circumstances..... | 4-7 |
| 4-II.F. | Updating the Waiting List [24 CFR 982.204] | 4-7 |
| | Purging the Waiting List..... | 4-7 |
| | Removal from the Waiting List | 4-8 |
| PART III: | SELECTION FOR HCV ASSISTANCE | 4-8 |
| 4-III.A. | Overview..... | 4-8 |
| 4-III.B. | Selection and HCV Funding Sources | 4-9 |
| | Special Admissions [24 CFR 982.203] | 4-9 |
| | Targeted Funding [24 CFR 982.204(e)] | 4-9 |
| | Regular HCV Funding..... | 4-10 |
| 4-III.C. | Selection Method..... | 4-10 |
| | Local Preferences [24 CFR 982.207; HCV p. 4-16] | 4-10 |
| | Income Targeting Requirement [24 CFR 982.201(b)(2)]..... | 4-12 |
| | Order of Selection..... | 4-13 |
| 4-III.D. | Notification of Selection..... | 4-14 |
| 4-III.E. | The Application Interview..... | 4-14 |
| 4-III.F. | Completing the Application Process | 4-15 |

Administrative Plan -Table of Contents

**Chapter 5
BRIEFINGS AND VOUCHER ISSUANCE**

| | | |
|----------|--|------|
| PART I: | BRIEFINGS AND FAMILY OBLIGATIONS | 5-1 |
| 5-I.A. | Overview..... | 5-1 |
| 5-I.B. | Briefing [24 CFR 982.301]..... | 5-1 |
| | Notification and Attendance | 5-2 |
| | Oral Briefing [24 CFR 982.301(a)] | 5-2 |
| | Briefing Packet [24 CFR 982.301(b)] | 5-3 |
| | Additional Items to be Included in the Briefing Packet | 5-4 |
| 5-I.C. | Family Obligations | 5-5 |
| | Time Frames for Reporting Changes Required by Family Obligations..... | 5-5 |
| | Family Obligations [24 CFR 982.551] | 5-5 |
| PART II: | SUBSIDY STANDARDS AND VOUCHER ISSUANCE..... | 5-8 |
| 5-II.A. | Overview..... | 5-8 |
| 5-II.B. | Determining Family Unit (Voucher) Size [24 CFR 982.402] | 5-8 |
| 5-II.C. | Exceptions to Subsidy Standards..... | 5-10 |
| 5-II.D. | Voucher Issuance [24 CFR 982.302]..... | 5-11 |
| 5-II.E. | Voucher Term and Extensions..... | 5-13 |
| | Voucher Term [24 CFR 982.303]..... | 5-13 |
| | Extensions of Voucher Term [24 CFR 982.303(b)] | 5-13 |
| | Suspensions of Voucher Term [24 CFR 982.303(c)] | 5-14 |
| | Expiration of Voucher Term..... | 5-14 |

Administrative Plan -Table of Contents

Chapter 6
INCOME AND SUBSIDY DETERMINATIONS
[24 CFR Part 5, Subparts E and F; 24 CFR 982]

| | | |
|---------|--|------|
| PART I: | ANNUAL INCOME..... | 6-2 |
| 6-I.A. | Overview..... | 6-2 |
| 6-I.B. | Household Composition and Income..... | 6-3 |
| | Summary of Income Included and Excluded by Person..... | 6-3 |
| | Temporarily Absent Family Members..... | 6-4 |
| | Family Members Permanently Confined for Medical Reasons..... | 6-5 |
| | Joint Custody of Dependents..... | 6-5 |
| | Caretakers for a Child..... | 6-6 |
| 6-I.C. | Anticipating Annual Income | 6-7 |
| | Basis of Annual Income Projection | 6-7 |
| | Projecting Income | 6-8 |
| 6-I.D. | Earned Income | 6-9 |
| | Types of Earned Income Included in Annual Income | 6-9 |
| | Types of Earned Income <u>Not</u> Counted in Annual Income | 6-9 |
| 6-I.E. | Earned Income Disallowance for Persons with Disabilities [24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16] | 6-13 |
| | Eligibility | 6-13 |
| | Calculation of the Disallowance | 6-14 |
| | Original Calculation Method | 6-14 |
| | Revised Calculation Method..... | 6-15 |
| 6-I.F. | Business Income [24 CFR 5.609(b)(2)]..... | 6-16 |
| | Business Expenses | 6-16 |
| | Business Expansion | 6-16 |
| | Capital Indebtedness | 6-16 |
| | Negative Business Income..... | 6-17 |
| | Withdrawal of Cash or Assets from a Business..... | 6-17 |
| | Co-owned Businesses | 6-17 |
| 6-I.G. | Assets [24 CFR 5.609(b)(3); 24 CFR 5.603(b)] | 6-18 |
| | Overview..... | 6-17 |
| | General Policies | 6-18 |
| | Types of Assets..... | 6-22 |
| 6-I.H. | Periodic Payments | 6-22 |
| | Periodic Payments <u>Included</u> in Annual Income..... | 6-26 |
| | Lump-Sum Payments for the Delayed Start of a Periodic Payment | 6-26 |
| | Treatment of Overpayment Deductions from Social Security Benefits..... | 6-26 |
| | Periodic Payments <u>Excluded</u> from Annual Income..... | 6-27 |
| 6-I.I. | Payments In Lieu of Earnings..... | 6-28 |

Administrative Plan -Table of Contents

| | | |
|----------|--|------|
| 6-I.J. | Welfare Assistance | 6-29 |
| | Overview..... | 6-29 |
| | Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615] | 6-29 |
| 6-I.K. | Periodic and Determinable Allowances [24 CFR 5.609(b)(7)]..... | 6-30 |
| | Alimony and Child Support..... | 6-30 |
| | Regular Contributions or Gifts | 6-30 |
| 6-I.L. | Student Financial Assistance [24 CFR 5.609(b)(9); Notice PIH 2015-21]..... | 6-31 |
| | Student Financial Assistance <u>Included</u> in Annual Income [24 CFR 5.609(b)(9)); FR 4/10/06; Notice PIH 2015-21]..... | 6-31 |
| | Student Financial Assistance <u>Excluded</u> from Annual Income [24 CFR 5.609(c)(6)] | 6-32 |
| 6-I.M. | Additional Exclusions From Annual Income | 6-33 |
| PART II: | ADJUSTED INCOME..... | 6-37 |
| 6-II.A. | Introduction..... | 6-37 |
| | Overview..... | 6-37 |
| | Anticipating Expenses | 6-37 |
| 6-II.B. | Dependent Deduction | 6-38 |
| 6-II.C. | Elderly or Disabled Family Deduction | 6-38 |
| 6-II.D. | Medical Expenses Deduction [24 CFR 5.611(a)(3)(i)] | 6-39 |
| | Definition of <i>Medical Expenses</i> | 6-39 |
| | Summary of Allowable Medical Expenses from IRS Publication 502 | 6-39 |
| | Families That Qualify for Both Medical and Disability Assistance Expenses | 6-40 |
| 6-II.E. | Disability Assistance Expenses Deduction [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)] | 6-41 |
| | Earned Income Limit on the Disability Assistance Expense Deduction | 6-41 |
| | Eligible Disability Expenses..... | 6-42 |
| | Necessary and Reasonable Expenses..... | 6-43 |
| | Families That Qualify for Both Medical and Disability Assistance Expenses | 6-43 |
| 6-II.F. | Child Care Expense Deduction..... | 6-44 |
| | Clarifying the Meaning of <i>Child</i> for This Deduction | 6-44 |
| | Qualifying for the Deduction..... | 6-44 |
| | Earned Income Limit on Child Care Expense Deduction | 6-46 |
| | Eligible Child Care Expenses | 6-47 |

Administrative Plan -Table of Contents

| | | |
|--------------|---|------|
| PART III: | CALCULATING FAMILY SHARE AND PHA SUBSIDY | 6-49 |
| 6-III.A. | Overview of Rent and Subsidy Calculations | 6-49 |
| | TTP Formula [24 CFR 5.628] | 6-49 |
| | Family Share [24 CFR 982.305(a)(5)]..... | 6-49 |
| | PHA Subsidy [24 CFR 982.505(b)]..... | 6-50 |
| | Utility Reimbursement [24 CFR 982.514(b); 982.514(c)] | 6-50 |
| 6-III.B. | Financial Hardships Affecting Minimum Rent [24 CFR 5.630] | 6-51 |
| | Overview..... | 6-51 |
| | HUD-Defined Financial Hardship..... | 6-51 |
| | Implementation of Hardship Exemption | 6-53 |
| 6-III.C. | Applying Payment Standards [24 CFR 982.505; 982.503(b)] | 6-56 |
| | Overview..... | 6-56 |
| | Changes in Payment Standards..... | 6-56 |
| | Reasonable Accommodation | 6-57 |
| 6-III.D. | Applying Utility Allowances [24 CFR 982.517]..... | 6-58 |
| | Overview..... | 6-58 |
| | Reasonable Accommodation | 6-58 |
| | Utility Allowance Revisions..... | 6-58 |
| 6-III.E. | Prorated Assistance for Mixed Families [24 CFR 5.520]..... | 6-59 |
| Exhibit 6-1: | Annual Income Inclusions | 6-61 |
| | HHS Definition of "Assistance" | 6-62 |
| Exhibit 6-2: | Annual Income Exclusions | 6-64 |
| Exhibit 6-3: | Treatment of Family Assets | 6-66 |
| Exhibit 6-4: | Earned Income Disallowance for Persons with Disabilities | 6-67 |
| Exhibit 6-5: | The Effect of Welfare Benefit Reduction | 6-69 |

Administrative Plan -Table of Contents

**Chapter 7
VERIFICATION**

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2010-19]

| | | |
|-----------------|--|------|
| PART I: | GENERAL VERIFICATION REQUIREMENTS | 7-1 |
| 7-I.A. | Family Consent to Release of Information [24 CFR 982.516 and 982.551, 24 CFR 5.230]..... | 7-1 |
| | Consent Forms | 7-1 |
| | Penalties for Failing to Consent [24 CFR 5.232] | 7-1 |
| 7-I.B. | Overview of Verification Requirements..... | 7-2 |
| | HUD’s Verification Hierarchy [Notice PIH 2010-19] | 7-2 |
| | Requirements for Acceptable Documents | 7-2 |
| | File Documentation | 7-3 |
| 7-I.C. | Up-Front Income Verification (UIV) | 7-3 |
| | Upfront Income Verification Using HUD’s Enterprise Income Verification (EIV) System (Mandatory)..... | 7-4 |
| | Upfront Income Verification Using Non-HUD Systems (Optional) | 7-5 |
| 7-I.D. | Third-Party Written and Oral Verification | 7-6 |
| | Written Third-Party Verification [Notice PIH 2010-19] | 7-6 |
| | Written Third-Party Verification Form | 7-7 |
| | Oral Third-Party Verification [Notice PIH 2010-19] | 7-7 |
| | When Third-Party Verification is Not Required [Notice PIH 2010-19] | 7-8 |
| 7-I.E. | Self-Certification | 7-9 |
| PART II: | VERIFYING FAMILY INFORMATION | 7-11 |
| 7-II.A. | Verification of Legal Identity | 7-11 |
| 7-II.B. | Social Security Numbers [24 CFR 5.216, Notice PIH 2012-10]..... | 7-12 |
| 7-II.C. | Documentation of Age..... | 7-14 |
| 7-II.D. | Family Relationships | 7-14 |
| | Marriage..... | 7-14 |
| | Separation or Divorce | 7-15 |
| | Absence of Adult Member..... | 7-15 |
| | Foster Children and Foster Adults..... | 7-15 |
| 7-II.E. | Verification of Student Status..... | 7-16 |
| | General Requirements | 7-16 |
| | Restrictions on Assistance to Students Enrolled in Institutions of Higher Education..... | 7-16 |
| 7-II.F. | Documentation of Disability..... | 7-17 |
| | Family Members Receiving SSA Disability Benefits | 7-18 |
| | Family Members Not Receiving SSA Disability Benefits | 7-18 |
| 7-II.G. | Citizenship or Eligible Immigration Status [24 CFR 5.508] | 7-19 |
| | Overview..... | 7-19 |
| | U.S. Citizens and Nationals | 7-19 |
| | Eligible Immigrants | 7-20 |
| 7-II.H. | Verification of Preference Status..... | 7-20 |

Administrative Plan -Table of Contents

| | | |
|--------------|--|------|
| PART III: | VERIFYING INCOME AND ASSETS | 7-21 |
| | 7-III.A. Earned Income | 7-21 |
| | Tips | 7-21 |
| | 7-III.B. Business and Self Employment Income | 7-21 |
| | 7-III.C. Periodic Payments and Payments In Lieu of Earnings | 7-22 |
| | Social Security/SSI Benefits..... | 7-22 |
| | 7-III.D. Alimony or Child Support | 7-23 |
| | 7-III.E. Assets and Income From Assets | 7-24 |
| | Assets Disposed of for Less than Fair Market Value | 7-24 |
| | 7-III.F. Net Income From Rental Property..... | 7-22 |
| | 7-III.G. Retirement Accounts | 7-25 |
| | 7-III.H. Income From Excluded Sources | 7-26 |
| | 7-III.I. Zero Annual Income Status | 7-26 |
| | 7-III.J. Student Financial Assistance | 7-27 |
| | 7-III.K. Parental Income of Students Subject to Eligibility Restrictions..... | 7-28 |
| PART IV: | VERIFYING MANDATORY DEDUCTIONS | 7-29 |
| | 7-IV.A. Dependent and Elderly/Disabled Household Deductions..... | 7-29 |
| | Dependent Deduction | 7-29 |
| | Elderly/Disabled Family Deduction | 7-27 |
| | 7-IV.B. Medical Expense Deduction | 7-30 |
| | Amount of Expense | 7-30 |
| | Eligible Household | 7-31 |
| | Qualified Expenses | 7-31 |
| | Unreimbursed Expenses | 7-31 |
| | Expenses Incurred in Past Years..... | 7-31 |
| | 7-IV.C. Disability Assistance Expenses | 7-32 |
| | Amount of Expense | 7-32 |
| | Family Member is a Person with Disabilities..... | 7-33 |
| | Family Member(s) Permitted to Work | 7-33 |
| | Unreimbursed Expenses | 7-33 |
| | 7-IV.D. Child Care Expenses..... | 7-34 |
| | Eligible Child..... | 7-34 |
| | Unreimbursed Expense..... | 7-34 |
| | Pursuing an Eligible Activity | 7-35 |
| | Allowable Type of Child Care..... | 7-36 |
| | Reasonableness of Expenses..... | 7-36 |
| Exhibit 7-1: | Summary of Documentation Requirements for Noncitizens [HCV GB, pp. 5-9 and 5-10]..... | 7-37 |

Administrative Plan -Table of Contents

**Chapter 8
HOUSING QUALITY STANDARDS AND RENT REASONABLENESS
DETERMINATIONS**

[24 CFR 982 Subpart I and 24 CFR 982.507]

| | | |
|-----------------|---|------|
| PART I: | PHYSICAL STANDARDS | 8-2 |
| 8-I.A. | General HUD Requirements..... | 8-2 |
| | HUD Performance and Acceptability Standards..... | 8-2 |
| | Tenant Preference Items..... | 8-2 |
| | Modifications to Provide Accessibility..... | 8-3 |
| 8-I.B. | Additional Local Requirements..... | 8-4 |
| | Thermal Environment [HCV GB p.10-7]..... | 8-4 |
| | Clarifications of HUD Requirements..... | 8-5 |
| 8-I.C. | Life-Threatening Conditions [24 CFR 982.404(a); FR Notice 1/18/17]..... | 8-6 |
| 8-I.D. | Owner and Family Responsibilities [24 CFR 982.404]..... | 8-9 |
| | Family Responsibilities..... | 8-9 |
| | Owner Responsibilities..... | 8-7 |
| 8-I.E. | Special Requirements for Children with Environmental Intervention Blood Lead Level [24 CFR 35.1225; FR Notice 1/13/17]..... | 8-10 |
| 8-I.F. | Violation of HQS Space Standards [24 CFR 982.401, 24 CFR 982.403]..... | 8-10 |
| PART II: | THE INSPECTION PROCESS | 8-11 |
| 8-II.A. | Overview [24 CFR 982.405]..... | 8-11 |
| | Types of Inspections..... | 8-11 |
| | Inspection of PHA-Owned Units [24 CFR 982.352(b)]..... | 8-11 |
| | Inspection Costs [Notice PIH 2016-05]..... | 8-12 |
| | Notice and Scheduling..... | 8-12 |
| | Owner and Family Inspection Attendance..... | 8-12 |
| 8-II.B. | Initial HQS Inspection [24 CFR 982.401(a)]..... | 8-13 |
| | Initial Inspections [FR Notice 1/18/17]..... | 8-13 |
| | Timing of Initial Inspections..... | 8-13 |
| | Inspection Results and Reinspections..... | 8-13 |
| | Utilities..... | 8-14 |
| | Appliances [Form HUD-52580]..... | 8-14 |
| 8-II.C. | Annual/Biennial HQS Inspections [24 CFR 982.405 and 982.406; Notice PIH 2016-05]..... | 8-15 |
| | Scheduling the Inspection..... | 8-15 |
| 8-II.D. | Special Inspections [24 CFR 982.405(g)]..... | 8-15 |
| 8-II.E. | Quality Control Inspections [24 CFR 982.405(b), HCV GB p. 10-32]..... | 8-16 |

Administrative Plan -Table of Contents

| | | |
|--------------|--|------|
| 8-II.F. | Inspection Results and Reinspections for Units Under HAP Contract..... | 8-16 |
| | Notification of Corrective Actions | 8-16 |
| | Extensions..... | 8-17 |
| | Reinspections..... | 8-17 |
| 8-II.G. | Enforcing Owner Compliance | 8-18 |
| | HAP Abatement..... | 8-18 |
| | HAP Contract Termination..... | 8-18 |
| 8-II.H. | Enforcing Family Compliance with HQS [24 CFR 982.404(b)]..... | 8-18 |
| PART III: | RENT REASONABLENESS [24 CFR 982.507]..... | 8-19 |
| 8-III.A. | Overview..... | 8-19 |
| | PHA-Owned Units [24 CFR 982.352(b)]..... | 8-19 |
| 8-III.B. | When Rent Reasonableness Determinations Are Required..... | 8-20 |
| | Owner-Initiated Rent Determinations..... | 8-20 |
| | PHA- and HUD-Initiated Rent Reasonableness Determinations ... | 8-20 |
| | LIHTC- and HOME-Assisted Units [24 CFR 982.507(c)] | 8-21 |
| 8-III.C. | How Comparability Is Established | 8-21 |
| | Factors to Consider | 8-21 |
| | Units that Must Not be Used as Comparables | 8-21 |
| | Rents Charged for Other Units on the Premises | 8-22 |
| 8-III.D. | PHA Rent Reasonableness Methodology | 8-23 |
| | How Market Data Is Collected | 8-23 |
| | How Rents Are Determined..... | 8-23 |
| Exhibit 8-1: | Overview of HUD Housing Quality Standards | 8-25 |
| Exhibit 8-2: | Summary of Tenant Preference Areas Related to Housing Quality | 8-29 |

Administrative Plan -Table of Contents

Chapter 9 GENERAL LEASING POLICIES

| | | |
|--------|--|------|
| 9-I.A. | Tenant Screening | 9-2 |
| 9-I.B. | Requesting Tenancy Approval [Form HUD-52517] | 9-3 |
| 9-I.C. | Owner Participation | 9-4 |
| 9-I.D. | Eligible Units | 9-5 |
| | Ineligible Units [24 CFR 982.352(a)]..... | 9-5 |
| | PHA-Owned Units [24 CFR 982.352(b)] | 9-5 |
| | Special Housing Types [24 CFR 982 Subpart M] | 9-5 |
| | Duplicative Assistance [24 CFR 982.352(c)] | 9-6 |
| | Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401] | 9-6 |
| | Unit Size | 9-7 |
| | Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507] | 9-7 |
| | Rent Burden [24 CFR 982.508]..... | 9-7 |
| 9-I.E. | Lease and Tenancy Addendum..... | 9-8 |
| | Lease Form and Tenancy Addendum [24 CFR 982.308]..... | 9-8 |
| | Lease Information [24 CFR 982.308(d)] | 9-8 |
| | Term of Assisted Tenancy | 9-9 |
| | Security Deposit [24 CFR 982.313 (a) and (b)] | 9-9 |
| | Separate Non-Lease Agreements between Owner and Tenant..... | 9-10 |
| | PHA Review of Lease | 9-11 |
| 9-I.F. | Tenancy Approval [24 CFR 982.305] | 9-12 |
| 9-I.G. | HAP Contract Execution [24 CFR 982.305] | 9-13 |
| 9-I.H. | Changes in Lease or Rent [24 CFR 982.308] | 9-14 |

Administrative Plan -Table of Contents

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

| | | |
|----------|--|-------|
| PART I: | MOVING WITH CONTINUED ASSISTANCE | 10-1 |
| 10-I.A. | Allowable Moves..... | 10-1 |
| 10-I.B. | Restrictions On Moves | 10-3 |
| | Denial of Moves | 10-3 |
| | Restrictions on Elective Moves [24 CFR 982.354(c)]..... | 10-4 |
| 10-I.C. | Moving Process | 10-5 |
| | Notification..... | 10-5 |
| | Approval | 10-5 |
| | Reexamination of Family Income and Composition | 10-5 |
| | Voucher Issuance and Briefing..... | 10-5 |
| | Housing Assistance Payments [24 CFR 982.311(d)] | 10-6 |
| PART II: | PORTABILITY | 10-7 |
| 10-II.A. | Overview..... | 10-7 |
| 10-II.B. | Initial PHA Role | 10-8 |
| | Allowable Moves under Portability..... | 10-8 |
| | Determining Income Eligibility..... | 10-9 |
| | Reexamination of Family Income and Composition | 10-9 |
| | Briefing..... | 10-10 |
| | Voucher Issuance and Term | 10-10 |
| | Voucher Extensions and Expiration | 10-10 |
| | Preapproval Contact with the Receiving PHA | 10-11 |
| | Initial Notification to the Receiving PHA | 10-11 |
| | Sending Documentation to the Receiving PHA | 10-12 |
| | Initial Billing Deadline [Notice PIH 2016-09] | 10-13 |
| | Monthly Billing Payments [Notice PIH 2016-09]..... | 10-14 |
| | Annual Updates of Form HUD-50058 | 10-14 |
| | Denial or Termination of Assistance [24 CFR 982.355(c)(17)]... | 10-14 |
| 10-II.C. | Receiving PHA Role..... | 10-15 |
| | Responding to Initial PHA’s Request [24 CFR 982.355(c)] | 10-15 |
| | Initial Contact with Family..... | 10-15 |
| | Briefing..... | 10-16 |
| | Income Eligibility and Reexamination | 10-16 |
| | Voucher Issuance..... | 10-17 |
| | Notifying the Initial PHA | 10-18 |
| | Administering a Portable Family’s Voucher | 10-18 |
| | Absorbing a Portable Family | 10-22 |

Administrative Plan -Table of Contents

Chapter 11 REEXAMINATIONS

| | | |
|-----------|--|-------|
| PART I: | ANNUAL REEXAMINATIONS [24 CFR 982.516]..... | 11-1 |
| | 11-I.A. Overview..... | 11-1 |
| | 11-I.B. Streamlined Annual Reexaminations [24 CFR 982.516(b)]..... | 11-2 |
| | 11-I.C. Scheduling Annual Reexaminations..... | 11-3 |
| | Notification of and Participation in the Annual Reexamination Process..... | 11-3 |
| | 11-I.D. Conducting Annual Reexaminations..... | 11-4 |
| | 11-I.E. Determining Ongoing Eligibility of Certain Students [24 CFR 982.552(b)(5)]..... | 11-6 |
| | 11-I.F. Effective Dates..... | 11-7 |
| PART II: | INTERIM REEXAMINATIONS [24 CFR 982.516]..... | 11-9 |
| | 11-II.A. Overview..... | 11-9 |
| | 11-II.B. Changes In Family and Household Composition..... | 11-9 |
| | New Family Members <u>Not</u> Requiring PHA Approval..... | 11-9 |
| | New Family and Household Members Requiring Approval..... | 11-10 |
| | Departure of a Family or Household Member..... | 11-11 |
| | 11-II.C. Changes Affecting Income or Expenses..... | 11-12 |
| | PHA-Initiated Interim Reexaminations..... | 11-12 |
| | Family-Initiated Interim Reexaminations..... | 11-13 |
| | 11-II.D. Processing the Interim Reexamination..... | 11-14 |
| | Method of Reporting..... | 11-14 |
| | Effective Dates..... | 11-14 |
| PART III: | RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT..... | 11-15 |
| | 11-III.A. Overview..... | 11-15 |
| | 11-III.B. Changes In Payment Standards and Utility Allowances..... | 11-15 |
| | Payment Standards [24 CFR 982.505]..... | 11-15 |
| | Subsidy Standards [24 CFR 982.505(c)(4)]..... | 11-16 |
| | Utility Allowances [24 CFR 982.517(d)]..... | 11-16 |
| | 11-III.C. Notification of New Family Share and HAP Amount..... | 11-16 |
| | 11-III.D. Discrepancies..... | 11-16 |

Administrative Plan -Table of Contents

**Chapter 12
TERMINATION OF ASSISTANCE AND TENANCY**

| | | |
|----------|--|-------|
| PART I: | GROUND S FOR TERMINATION OF ASSISTANCE | 12-1 |
| | 12-I.A. Overview..... | 12-1 |
| | 12-I.B. Family No Longer Requires Assistance [24 CFR 982.455]..... | 12-1 |
| | 12-I.C. Family Chooses to Terminate Assistance..... | 12-2 |
| | 12-I.D. Mandatory Termination of Assistance..... | 12-2 |
| | Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]..... | 12-2 |
| | Failure to Provide Consent [24 CFR 982.552(b)(3)]..... | 12-2 |
| | Failure to Document Citizenship [24 CFR 982.552(b)(4) and 24 CFR 5.514(c)] | 12-3 |
| | Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2012-10] | 12-3 |
| | Methamphetamine Manufacture or Production [24 CFR 983.553(b)(1)(ii)]..... | 12-3 |
| | Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]..... | 12-3 |
| | Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-3]..... | 12-4 |
| | 12-I.E. Mandatory Policies and Other Authorized Terminations..... | 12-4 |
| | Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]..... | 12-4 |
| | Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), 24 CFR 5.2005(c)]..... | 12-7 |
| PART II: | APPROACH TO TERMINATION OF ASSISTANCE..... | 12-9 |
| | 12-II.A. Overview..... | 12-9 |
| | 12-II.B. Method of Termination [24 CFR 982.552(a)(3)] | 12-9 |
| | 12-II.C. Alternatives to Termination of Assistance | 12-9 |
| | Change in Household Composition | 12-9 |
| | Repayment of Family Debts | 12-9 |
| | 12-II.D. Criteria for Deciding to Terminate Assistance | 12-10 |
| | Evidence | 12-10 |
| | Consideration of Circumstances [24 CFR 982.552(c)(2)(i)]..... | 12-10 |
| | Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)] | 12-11 |
| | 12-II.E. Terminations Related to Domestic Violence, Dating Violence, Sexual Assault or Stalking..... | 12-12 |
| | VAWA Protections against Terminations | 12-12 |
| | Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)] | 12-13 |
| | Documentation of Abuse [24 CFR 5.2007]..... | 12-14 |
| | Terminating the Assistance of a Domestic Violence Perpetrator | 12-14 |
| | 12-II.F. Termination Notice..... | 12-15 |

Administrative Plan -Table of Contents

PART III: TERMINATION OF TENANCY BY THE OWNER..... 12-17

12-III.A. Overview..... 12-17

12-III.B. Grounds for Owner Termination of Tenancy
[24 CFR 982.310, 24 CFR 5.2005(c), and
Form HUD-52641-A, Tenancy Addendum]..... 12-17

 Serious or Repeated Lease Violations 12-17

 Violation of Federal, State, or Local Law 12-17

 Criminal Activity or Alcohol Abuse..... 12-17

 Other Good Cause..... 12-18

12-III.C. Eviction [24 CFR 982.310(e) and (f) and Form HUD-52641-A,
Tenancy Addendum] 12-19

12-III.D. Deciding Whether to Terminate Tenancy
[24 CFR 982.310(h), 24 CFR 982.310(h)(4)]...... 12-20

12-III.E. Effect of Tenancy Termination on the Family’s Assistance 12-20

Exhibit 12-1: Statement of Family Obligations..... 12-21

Administrative Plan -Table of Contents

Chapter 13 OWNERS

| | | |
|----------|--|-------|
| PART I: | OWNERS IN THE HCV PROGRAM | 13-3 |
| 13-I.A. | Owner Recruitment and Retention [HCV GB, pp. 2-4 to 2-6] | 13-3 |
| | Recruitment..... | 13-3 |
| | Retention..... | 13-4 |
| 13-I.B. | Basic HCV Program Requirements | 13-5 |
| 13-I.C. | Owner Responsibilities [24 CFR 982.452]..... | 13-7 |
| 13-I.D. | Owner Qualifications..... | 13-8 |
| | Owners Barred from Participation [24 CFR 982.306(a) and (b)]... .. | 13-8 |
| | Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2] | 13-8 |
| | Conflict of Interest [24 CFR 982.161; HCV GB p. 8-19] | 13-8 |
| | Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)] | 13-10 |
| | Legal Ownership of Unit | 13-11 |
| 13-I.E. | Non-Discrimination [HAP Contract – Form HUD-52641] | 13-11 |
| PART II: | HAP CONTRACTS..... | 13-13 |
| 13-II.A. | Overview..... | 13-13 |
| 13-II.B. | HAP Contract Contents | 13-14 |
| 13-II.C. | HAP Contract Payments | 13-16 |
| | General..... | 13-16 |
| | Owner Certification of Compliance..... | 13-16 |
| | Late HAP Payments [24 CFR 982.451(a)(5)] | 13-17 |
| | Termination of HAP Payments [24 CFR 982.311(b)]..... | 13-17 |
| 13-II.D. | Breach of HAP Contract [24 CFR 982.453]..... | 13-18 |
| 13-II.E. | HAP Contract Term and Terminations..... | 13-19 |
| 13-II.F. | Change In Ownership / Assignment of the HAP Contract [HUD-52641]..... | 13-21 |

Administrative Plan -Table of Contents

**Chapter 14
PROGRAM INTEGRITY**

| | | |
|----------|---|-------|
| PART I: | PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE | 14-3 |
| 14-I.A. | Preventing Errors and Program Abuse | 14-3 |
| 14-I.B. | Detecting Errors and Program Abuse | 14-4 |
| | Quality Control and Analysis of Data | 14-4 |
| | Independent Audits and HUD Monitoring | 14-4 |
| | Individual Reporting of Possible Errors and Program Abuse | 14-4 |
| 14-I.C. | Investigating Errors and Program Abuse..... | 14-5 |
| | When the PHA Will Investigate | 14-5 |
| | Consent to Release of Information [24 CFR 982.516]..... | 14-5 |
| | Analysis and Findings..... | 14-5 |
| | Consideration of Remedies..... | 14-6 |
| | Notice and Appeals..... | 14-6 |
| PART II: | CORRECTIVE MEASURES AND PENALTIES | 14-7 |
| 14-II.A. | Subsidy Under- or Overpayments | 14-7 |
| | Corrections..... | 14-7 |
| | Reimbursement..... | 14-7 |
| 14-II.B. | Family-Caused Errors and Program Abuse | 14-8 |
| | Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13] | 14-8 |
| | PHA Reimbursement to Family [HCV GB p. 22-12]..... | 14-8 |
| | Prohibited Actions | 14-9 |
| | Penalties for Program Abuse | 14-9 |
| 14-II.C. | Owner-Caused Error or Program Abuse..... | 14-10 |
| | Owner Reimbursement to the PHA | 14-10 |
| | Prohibited Owner Actions | 14-10 |
| | Remedies and Penalties | 14-11 |
| 14-II.D. | PHA-Caused Errors or Program Abuse..... | 14-12 |
| | Repayment to the PHA | 14-12 |
| | PHA Reimbursement to Family or Owner | 14-12 |
| | Prohibited Activities | 14-12 |
| 14-II.E. | Criminal Prosecution | 14-13 |
| 14-II.F. | Fraud and Program Abuse Recoveries | 14-14 |

Administrative Plan -Table of Contents

**Chapter 15
SPECIAL HOUSING TYPES
[24 CFR 982 Subpart M]**

| | | |
|-----------|---|-------|
| PART I: | SINGLE ROOM OCCUPANCY [24 CFR 982.602 through 982.605] | 15-3 |
| | 15-I.A. Overview..... | 15-3 |
| | 15-I.B. Payment Standard, Utility Allowance, and HAP Calculation | 15-3 |
| | 15-I.C. Housing Quality Standards (HQS) | 15-3 |
| PART II: | CONGREGATE HOUSING [24 CFR 982.606 through 982.609]..... | 15-5 |
| | 15-II.A. Overview..... | 15-5 |
| | 15-II.B. Payment Standard, Utility Allowance, and HAP Calculation | 15-6 |
| | 15-II.C. Housing Quality Standards | 15-6 |
| PART III: | GROUP HOME [24 CFR 982.610 through 982.614 and HCV GB p. 7-4] | 15-7 |
| | 15-III.A. Overview..... | 15-7 |
| | 15-III.B. Payment Standard, Utility Allowance, and HAP Calculation | 15-7 |
| | 15-III.C. Housing Quality Standards | 15-8 |
| PART IV: | SHARED HOUSING [24 CFR 982.615 through 982.618]..... | 15-9 |
| | 15-IV.I. Overview..... | 15-9 |
| | 15-IV.B. Payment Standard, Utility Allowance and HAP Calculation | 15-9 |
| | 15-IV.C. Housing Quality Standards | 15-10 |
| PART V: | COOPERATIVE HOUSING [24 CFR 982.619]..... | 15-11 |
| | 15-V.A. Overview..... | 15-11 |
| | 15-V.B. Payment Standard, Utility Allowance and HAP Calculation | 15-11 |
| | 15-V.C. Housing Quality Standards | 15-11 |
| PART VI: | MANUFACTURED HOMES [24 CFR 982.620 through 982.624; FR Notice 1/18/17]..... | 15-13 |
| | 15-VI.A. Overview..... | 15-13 |
| | 15-VI.B. Special Policies for Manufactured Home Owners | |
| | Who Lease A Space..... | 15-13 |
| | Family Income | 15-13 |
| | Lease and HAP Contract | 15-13 |
| | 15-VI.C. Payment Standard, Utility Allowance and HAP Calculation [FR Notice 1/18/17] | 15-14 |
| | Payment Standards..... | 15-14 |
| | Utility Allowance..... | 15-14 |
| | Space Rent | 15-14 |
| | Amortization Costs | 15-15 |
| | Housing Assistance Payment..... | 15-15 |
| | Rent Reasonableness | 15-15 |
| | 15-VI.D. Housing Quality Standards | 15-16 |

Administrative Plan -Table of Contents

| | |
|--|-------|
| PART VII: HOMEOWNERSHIP [24 CFR 982.625 through 982.643]..... | 15-17 |
| 15-VII.A. Overview [24 CFR 982.625] | 15-17 |
| 15-VII.B. Family Eligibility [24 CFR 982.627]..... | 15-18 |
| 15-VII.C. Selection of Families [24 CFR 982.626] | 15-19 |
| 15-VII.D. Eligible Units [24 CFR 982.628]..... | 15-19 |
| 15-VII.E. Additional PHA Requirements for Search and Purchase [24 CFR 982.629] | 15-20 |
| 15-VII.F. Homeownership Counseling [24 CFR 982.630] | 15-21 |
| 15-VII.G. Home Inspections, Contract of Sale, and PHA Disapproval of Seller [24 CFR 982.631]..... | 15-22 |
| Home Inspections | 15-22 |
| Contract of Sale | 15-22 |
| Disapproval of a Seller | 15-22 |
| 15-VII.H. Financing [24 CFR 982.632] | 15-23 |
| 15-VII.I. Continued Assistance Requirements; Family Obligations [24 CFR 982.633] | 15-23 |
| 15-VII.J. Maximum Term of Homeowner Assistance [24 CFR 982.634]..... | 15-24 |
| 15-VII.K. Homeownership Assistance Payments and Homeownership Expenses [24 CFR 982.635]..... | 15-24 |
| 15-VII.L. Portability [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553] | 15-27 |
| 15-VII.M. Moving with Continued Assistance [24 CFR 982.637]..... | 15-27 |
| 15-VII.N. Denial or Termination of Assistance [24 CFR 982.638]..... | 15-28 |

Administrative Plan -Table of Contents

**Chapter 16
PROGRAM ADMINISTRATION**

| | | |
|-----------|---|-------|
| PART I: | ADMINISTRATIVE FEE RESERVE [24 CFR 982.155] | 16-2 |
| PART II: | SETTING PROGRAM STANDARDS AND SCHEDULES | 16-2 |
| | 16-II.A. Overview..... | 16-2 |
| | 16-II.B. Payment Standards [24 CFR 982.503; HCV GB, Chapter 7]..... | 16-3 |
| | Updating Payment Standards..... | 16-3 |
| | Exception Payment Standards [982.503(c)] | 16-4 |
| | Unit-by-Unit Exceptions [24 CFR 982.503(b), 24 CFR 982.505(d), Notice PIH 2010-26] | 16-4 |
| | "Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]..... | 16-5 |
| | Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)] | 16-5 |
| | 16-II.C. Utility Allowances [24 CFR 982.517]..... | 16-5 |
| | Air Conditioning..... | 16-6 |
| | Reasonable Accommodation | 16-6 |
| | Utility Allowance Revisions..... | 16-6 |
| PART III: | INFORMAL REVIEWS AND HEARINGS | 16-6 |
| | 16-III.A. Overview..... | 16-7 |
| | 16-III.B. Informal Reviews..... | 16-7 |
| | Decisions Subject to Informal Review | 16-7 |
| | Notice to the Applicant [24 CFR 982.554(a)] | 16-7 |
| | Scheduling an Informal Review | 16-7 |
| | Informal Review Procedures [24 CFR 982.554(b)] | 16-8 |
| | Informal Review Decision [24 CFR 982.554(b)] | 16-8 |
| | 16-III.C. Informal Hearings for Participants [24 CFR 982.555] | 16-9 |
| | Decisions Subject to Informal Hearing..... | 16-10 |
| | Informal Hearing Procedures..... | 16-11 |
| | 16-III.D. Hearing and Appeal Provisions for Noncitizens [24 CFR 5.514] | 16-15 |
| | Notice of Denial or Termination of Assistance [24 CFR 5.514(d)] | 16-15 |
| | USCIS Appeal Process [24 CFR 5.514(e)]..... | 16-15 |
| | Informal Hearing Procedures for Applicants [24 CFR 5.514(f)] | 16-16 |
| | Informal Hearing Procedures for Residents [24 CFR 5.514(f)] | 16-17 |
| | Retention of Documents [24 CFR 5.514(h)] | 16-17 |

Administrative Plan -Table of Contents

| | | |
|------------|--|-------|
| PART IV: | OWNER OR FAMILY DEBTS TO THE PHA | 16-19 |
| | 16-IV.A. Overview..... | 16-19 |
| | 16-IV.B. Repayment Policy | 16-19 |
| | Owner Debts to the PHA | 16-19 |
| | Family Debts to the PHA..... | 16-19 |
| | Repayment Agreement [24 CFR 792.103] | 16-20 |
| | General Repayment Agreement Guidelines | 16-20 |
| | Repayment Agreements Involving Improper Payments..... | 16-21 |
| PART V: | SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP) | 16-22 |
| | 16-V.A. Overview..... | 16-22 |
| | 16-V.B. SEMAP Certification [24 CFR 985.101]..... | 16-22 |
| | HUD Verification Method..... | 16-22 |
| | 16-V.C. SEMAP Indicators [24 CFR 985.3 and form HUD-52648] | 16-22 |
| | SEMAP Indicators Chart | 16-23 |
| PART VI: | RECORD KEEPING | 16-26 |
| | 16-VI.A. Overview..... | 16-26 |
| | 16-VI.B. Record Retention [24 CFR 982.158]..... | 16-26 |
| | 16-VI.C. Records Management | 16-27 |
| | Privacy Act Requirements [24 CFR 5.212 and Form-9886] | 16-27 |
| | Upfront Income Verification (UIV) Records | 16-27 |
| | Criminal Records | 16-28 |
| | Medical/Disability Records | 16-28 |
| | Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking | 16-28 |
| PART VII: | REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL..... | 16-28 |
| | 16-VII.A. Overview..... | 16-28 |
| | 16-VII.B. Reporting Requirement [24 CFR 35.1225(e)] | 16-28 |
| | 16-VII.C. Data Collection and Record Keeping [24 CFR 35.1225(f)] | 16-29 |
| PART VIII: | DETERMINATION OF INSUFFICIENT FUNDING | 16-29 |
| | 16-VIII.A. Overview | 16-29 |
| | 16-VIII.B. Methodology | 16-30 |

Administrative Plan -Table of Contents

| | |
|--|-------|
| PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY | 16-30 |
| 16-IX.A. Overview | 16-30 |
| 16-IX.B. Definitions [24 CFR 5.2003] | 16-30 |
| 16-IX.C. Notification [24 CFR 5.2005(a), 42 USC 13925] | 16-31 |
| Notification to Public | 16-31 |
| Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)] | 16-32 |
| Notification to Owners and Managers | 16-32 |
| 16-IX.D. Documentation [24 CFR 5.2007] | 16-33 |
| Conflicting Documentation [24 CFR 5.2007(e)] | 16-34 |
| Discretion to Require No Formal Documentation [24 CFR 5.2007(d)] | 16-34 |
| Failure to Provide Documentation [24 CFR 5.2007(c)] | 16-35 |
| 16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)] | 16-35 |
| Exhibit 16-1: Sample Notice of Occupancy Rights Under the Violence Against Women Act, Form HUD-5380 | 16-34 |
| Exhibit 16-2: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation, Form HUD-5382 | 16-43 |
| Exhibit 16-3: NMA Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (HCV Version) | 16-46 |
| Exhibit 16-4: Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 | 16-51 |
| Exhibit 16-5: Sample Notice to Housing Choice Voucher Owners and Managers Regarding the Violence Against Women Act (VAWA) | 16-55 |

Administrative Plan -Table of Contents

**Chapter 17
PROJECT-BASED VOUCHERS**

| | | |
|----------|--|-------|
| PART I: | GENERAL REQUIREMENTS | 17-3 |
| 17-I.A. | Overview [24 CFR 983.5] | 17-3 |
| | Additional Project-Based Units [FR Notice 1/18/17]..... | 17-3 |
| | Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]..... | 17-4 |
| 17-I.B. | Tenant-Based vs. Project-Based Voucher Assistance [24 CFR 983.2] | 17-5 |
| 17-I.C. | Relocation Requirements [24 CFR 983.7]..... | 17-5 |
| 17-I.D. | Equal Opportunity Requirements [24 CFR 983.8] | 17-5 |
| PART II: | PBV OWNER PROPOSALS | 17-7 |
| 17-II.A. | Overview..... | 17-7 |
| 17-II.B. | Owner Proposal Selection Procedures [24 CFR 983.51(b)]..... | 17-7 |
| | Units Selected Non-Competitively [FR Notice 1/18/17]..... | 17-7 |
| | Solicitation and Selection of PBV Proposals [24 CFR 983.51(c)]..... | 17-8 |
| | PHA-Owned Units [24 CFR 983.51(e), 983.59, Notice PIH 2015-05, and FR Notice 1/18/17] | 17-11 |
| | PHA Notice of Owner Selection [24 CFR 983.51(d)]..... | 17-12 |
| 17-II.C. | Housing Type [24 CFR 983.52] | 17-12 |
| 17-II.D. | Prohibition of Assistance for Certain Units..... | 17-13 |
| | Ineligible Housing Types [24 CFR 983.53] | 17-13 |
| | Subsidized Housing [24 CFR 983.54]..... | 17-13 |
| 17-II.E. | Subsidy Layering Requirements [24 CFR 983.55, FR Notice 11/24/08, FR Notice 7/9/10, and FR Notice 6/25/14] | 17-14 |
| 17-II.F. | Cap On Number of PBV Units in Each Project | 17-15 |
| | 25 Percent per Project Cap [24 CFR 983.56(a)]..... | 17-15 |
| | Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17]..... | 17-15 |
| | Projects not Subject to a Project Cap [FR Notice 1/18/17] | 17-16 |
| | Promoting Partially-Assisted Projects [24 CFR 983.56(c)]..... | 17-16 |
| 17-II.G. | Site Selection Standards | 17-17 |
| | Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]..... | 17-17 |
| | Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]..... | 17-18 |
| | New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]..... | 17-18 |
| 17-II.H. | Environmental Review [24 CFR 983.58]..... | 17-19 |

Administrative Plan -Table of Contents

| | | |
|-----------|---|-------|
| PART III: | DWELLING UNITS..... | 17-21 |
| | 17-III.A. Overview..... | 17-21 |
| | 17-III.B. Housing Quality Standards [24 CFR 983.101]..... | 17-21 |
| | Lead-based Paint [24 CFR 983.101(c)]..... | 17-21 |
| | 17-III.C. Housing Accessibility for Persons with Disabilities | 17-21 |
| | 17-III.D. Inspecting Units | 17-22 |
| | Pre-selection Inspection [24 CFR 983.103(a)] | 17-22 |
| | Pre-HAP Contract Inspections [24 CFR 983.103(b); | |
| | FR Notice 1/18/17] | 17-22 |
| | Turnover Inspections [24 CFR 983.103(c)]..... | 17-22 |
| | Annual/Biennial Inspections [24 CFR 983.103(d), | |
| | FR Notice 6/25/14] | 17-22 |
| | Other Inspections [24 CFR 983.103(e)] | 17-23 |
| | Inspecting PHA-Owned Units [24 CFR 983.103(f)]..... | 17-23 |
| PART IV: | REHABILITATED AND NEWLY CONSTRUCTED UNITS..... | 17-25 |
| | 17-IV.A. Overview [24 CFR 983.151] | 17-25 |
| | 17-IV.B. Agreement to Enter into HAP Contract..... | 17-25 |
| | Content of the Agreement [24 CFR 983.152(d)]..... | 17-26 |
| | Execution of the Agreement | |
| | [24 CFR 983.153] | 17-26 |
| | 17-IV.C. Conduct of Development Work..... | 17-27 |
| | Labor Standards [24 CFR 983.154(b)] | 17-27 |
| | Equal Opportunity [24 CFR 983.154(c)]..... | 17-27 |
| | Owner Disclosure [24 CFR 983.154(d) and (e)] | 17-27 |
| | 17-IV.D. Completion of Housing..... | 17-28 |
| | Evidence of Completion [24 CFR 983.155(b)] | 17-28 |
| | PHA Acceptance of Completed Units [24 CFR 983.156]..... | 17-28 |
| PART V: | HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP) | 17-29 |
| | 17-V.A. Overview..... | 17-29 |
| | 17-V.B. HAP Contract Requirements | 17-29 |
| | Contract Information [24 CFR 983.203] | 17-29 |
| | Execution of the HAP Contract [24 CFR 983.204]..... | 17-30 |
| | Term of HAP Contract [24 CFR 983.205; | |
| | FR Notice 1/18/17] | 17-30 |
| | Statutory Notice Requirements: Contract Termination | |
| | or Expiration [24 CFR 983.206; FR Notice 1/18/17] | 17-32 |
| | Remedies for HQS Violations [24 CFR 983.208(b)] | 17-32 |
| | 17-V.C. Amendments to the HAP Contract | 17-33 |
| | Substitution of Contract Units [24 CFR 983.207(a)]..... | 17-33 |
| | Addition of Contract Units [FR Notice 1/18/17]..... | 17-33 |
| | 17-V.D. HAP Contract Year, Anniversary and Expiration Dates | |
| | [24 CFR 983.207(b) and 983.302(e)] | 17-33 |
| | 17-V.E. Owner Responsibilities Under the HAP [24 CFR 983.210]..... | 17-34 |

Administrative Plan -Table of Contents

| | |
|---|--------------|
| 17-V.F. Additional HAP Requirements | 17-35 |
| Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.208(a)] | 17-35 |
| Vacancy Payments [24 CFR 983.352(b)] | 17-35 |
| PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS..... | 17-37 |
| 17-VI.A. Overview..... | 17-37 |
| 17-VI.B. Eligibility for PBV Assistance [24 CFR 983.251(a) and (b)] | 17-37 |
| In-Place Families [24 CFR 983.251(b)] | 17-38 |
| 17-VI.C. Organization of the Waiting List [24 CFR 983.251(c)]..... | 17-39 |
| 17-VI.D. Selection From the Waiting List [24 CFR 983.251(c)]..... | 17-39 |
| Income Targeting [24 CFR 983.251(c)(6)] | 17-39 |
| Units with Accessibility Features [24 CFR 983.251(c)(7)]..... | 17-39 |
| Preferences [24 CFR 983.251(d), FR Notice 11/24/08] | 17-40 |
| 17-VI.E. Offer of PBV Assistance | 17-41 |
| Refusal of Offer [24 CFR 983.251(e)(3)]..... | 17-41 |
| Disapproval by Landlord [24 CFR 983.251(e)(2)]..... | 17-41 |
| Acceptance of Offer [24 CFR 983.252] | 17-41 |
| 17-VI.F. Owner Selection of Tenants | 17-42 |
| Leasing [24 CFR 983.253(a)] | 17-42 |
| Filling Vacancies [24 CFR 983.254(a)]..... | 17-42 |
| Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)] | 17-42 |
| 17-VI.G. Tenant Screening [24 CFR 983.255]..... | 17-43 |
| PHA Responsibility | 17-43 |
| Owner Responsibility | 17-43 |
| PART VII: OCCUPANCY..... | 17-44 |
| 17-VII.A. Overview..... | 17-44 |
| 17-VII.B. Lease [24 CFR 983.256]..... | 17-44 |
| Form of Lease [24 CFR 983.256(b)] | 17-44 |
| Lease Requirements [24 CFR 983.256(c)] | 17-44 |
| Tenancy Addendum [24 CFR 983.256(d)]..... | 17-46 |
| Initial Term and Lease Renewal [24 CFR 983.256(f)]..... | 17-46 |
| Changes in the Lease [24 CFR 983.256(e)]..... | 17-46 |
| Owner Termination of Tenancy [24 CFR 983.257] | 17-47 |
| Continuation of Housing Assistance Payments [24 CFR 983.258] | 17-47 |
| Security Deposits [24 CFR 983.259]..... | 17-48 |
| 17-VII.C. Moves | 17-49 |
| Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260] | 17-49 |
| Family Right to Move [24 CFR 983.261] | 17-50 |
| 17-VII.D. Exceptions to the Occupancy Cap [24 CFR 983.262]..... | 17-51 |

Administrative Plan -Table of Contents

| | |
|---|-------|
| PART VIII: DETERMINING RENT TO OWNER | 17-53 |
| 17-VIII.A. Overview..... | 17-53 |
| 17-VIII.B. Rent Limits [24 CFR 983.301] | 17-53 |
| Certain Tax Credit Units [24 CFR 983.301(c)] | 17-53 |
| Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)] | 17-54 |
| Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)] | 17-55 |
| Use of Small Area FMRs (SAFMRs) [24 CFR 888.113(h)] | 17-55 |
| Redetermination of Rent [24 CFR 983.302]..... | 17-56 |
| PHA-Owned Units [24 CFR 983.301(g)]..... | 17-56 |
| 17-VIII.C. Reasonable Rent [24 CFR 983.303] | 17-57 |
| When Rent Reasonable Determinations Are Required | 17-57 |
| How to Determine Reasonable Rent..... | 17-57 |
| PHA-Owned Units..... | 17-57 |
| Owner Certification of Reasonable Rent..... | 17-58 |
| 17-VIII.D. Effect of Other Subsidy and Rent Control..... | 17-58 |
| Other Subsidy [24 CFR 983.304] | 17-58 |
| Rent Control [24 CFR 983.305] | 17-58 |
| PART IX: PAYMENTS TO OWNER..... | 17-59 |
| 17-IX.A. Housing Assistance Payments [24 CFR 983.351]..... | 17-59 |
| 17-IX.B. Vacancy Payments [24 CFR 983.352]..... | 17-59 |
| 17-IX.C. Tenant Rent to Owner [24 CFR 983.353] | 17-61 |
| Tenant and PHA Responsibilities..... | 17-61 |
| Utility Reimbursements..... | 17-61 |
| 17-IX.D. Other Fees and Charges [24 CFR 983.354]..... | 17-62 |
| Meals and Supportive Services..... | 17-62 |
| Other Charges by Owner | 17-62 |

Administrative Plan -Table of Contents

**Chapter 18
PROJECT BASED VOUCHERS (PBV) UNDER THE
RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM**

| | | |
|-----------|---|-------|
| PART I: | GENERAL REQUIREMENTS | 18-3 |
| | 18-I.A. Overview and History of the RAD Program | 18-3 |
| | 18-I.B. Applicable Regulations..... | 18-4 |
| | 18-I.C. Tenant-Based Vs. Project-Based Voucher Assistance [24 CFR 983.2] | 18-6 |
| | 18-I.D. Relocation Requirements [Notice PIH 2016-17]..... | 18-6 |
| | 18-I.E. Equal Opportunity Requirements [24 CFR 983.8; Notice PIH 2012-32, REV-3] | 18-8 |
| PART II: | PBV PROJECT SELECTION | 18-9 |
| | 18-II.A. Overview..... | 18-9 |
| | 18-II.B. Ownership and Control [Notice PIH 2012-32, REV-3] | 18-9 |
| | 18-II.C. PHA-Owned Units [24 CFR 983.59; Notice PIH 2012-32, REV-3; FR Notice 1/18/17] | 18-10 |
| | 18-II.D. Subsidy Layering Requirements [Notice PIH 2012-32, REV-3] | 18-11 |
| | 18-II.E. PBV Percentage Limitation [Notice PIH 2012-32, REV-3]..... | 18-11 |
| | 18-II.F. Site Selection Standards [Notice PIH 2012-32, REV-3; Notice PIH 2016-17]..... | 18-12 |
| | 18-II.G. Environmental Review [Notice PIH 2012-32, REV-3]..... | 18-12 |
| PART III: | DWELLING UNITS..... | 18-13 |
| | 18-III.A. Overview..... | 18-13 |
| | 18-III.B. Housing Quality Standards [24 CFR 983.101]..... | 18-13 |
| | Lead-based Paint [24 CFR 983.101(c)]..... | 18-13 |
| | 18-III.C. Housing Accessibility for Persons with Disabilities | 18-13 |
| | 18-III.D. Inspecting Units..... | 18-14 |
| | Initial Inspection [Notice PIH 2012-32, REV-3] | 18-14 |
| | Turnover Inspections [24 CFR 983.103(c)] | 18-14 |
| | Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14] | 18-14 |
| | Other Inspections [24 CFR 983.103(e)] | 18-14 |
| | Inspecting PHA-Owned Units [24 CFR 983.103(f)] | 18-14 |

Administrative Plan -Table of Contents

| | | |
|----------|--|-------|
| PART IV: | HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT..... | 18-15 |
| | 18-IV.A. Overview..... | 18-15 |
| | 18-IV.B. HAP Contract Requirements | 18-15 |
| | Contract Information [PBV Quick Reference Guide (10/14)] ... | 18-15 |
| | Execution and Effective date of the HAP Contract | |
| | [<i>RADBlast!</i> 7/11/16] | 18-15 |
| | Term of HAP Contract [Notice PIH 2012-32, REV-3] | 18-15 |
| | Agreement to Enter into a HAP (AHAP) Contract | |
| | [Notice PIH 2012-32, REV-3] | 18-15 |
| | Mandatory Contract Renewal [Notice PIH 2012-32, REV-3] | 18-16 |
| | Remedies for HQS Violations [24 CFR 983.208(b)] | 18-16 |
| | 18-IV.C. Amendments to the HAP Contract | 18-17 |
| | Floating Units [Notice PIH 2012-32, REV-3] | 18-17 |
| | Reduction in HAP Contract Units | |
| | [Notice PIH 2012-32, REV-3] | 18-17 |
| | 18-IV.D. HAP Contract Year and Anniversary Dates [24 CFR 983.302(e)] ... | 18-17 |
| | 18-IV.E. Owner Responsibilities under the HAP Contract | |
| | [24 CFR 983.210] | 18-18 |
| | 18-IV.F. Vacancy Payments [24 CFR 983.352(b)]..... | 18-18 |
| PART V: | SELECTION OF PBV PROGRAM PARTICIPANTS..... | 18-19 |
| | 18-V.A. Overview..... | 18-19 |
| | 18-V.B. Prohibited Rescreening of Existing Tenants upon Conversion | |
| | [Notice PIH 2012-32, REV-3]..... | 18-19 |
| | 18-V.C. Eligibility for PBV Assistance [24 CFR 983.251(a) and (b)] | 18-20 |
| | 18-V.D. Organization of the Waiting List [24 CFR 983.251(c); | |
| | Notice PIH 2012-32, REV-3] | 18-21 |
| | 18-V.E. Selection from the Waiting List [24 CFR 983.251(c)]..... | 18-22 |
| | Income Targeting [24 CFR 983.251(c)(6); | |
| | Notice PIH 2012-32, REV-3] | 18-22 |
| | Units with Accessibility Features [24 CFR 983.251(c)(7)] | 18-22 |
| | Preferences [24 CFR 983.251(d); FR Notice 11/24/08; | |
| | Notice PIH 2012-32, REV-3] | 18-22 |
| | 18-V.F. Offer of PBV Assistance | 18-23 |
| | Refusal of Offer [24 CFR 983.251(e)(3)] | 18-23 |
| | Disapproval by Landlord [24 CFR 983.251(e)(2)] | 18-23 |
| | Acceptance of Offer [24 CFR 983.252] | 18-23 |
| | 18-V.G. Owner Selection of Tenants..... | 18-24 |
| | Leasing [24 CFR 983.253(a)] | 18-24 |
| | Filling Vacancies [24 CFR 983.254(a)] | 18-24 |
| | 18-V.H. Tenant Screening [24 CFR 983.255]..... | 18-25 |
| | PHA Responsibility | 18-25 |
| | Owner Responsibility | 18-25 |

Administrative Plan -Table of Contents

| | | |
|-----------|---|-------|
| PART VI: | OCCUPANCY..... | 18-27 |
| | 18-VI.A. Overview..... | 18-27 |
| | 18-VI.B. Lease [24 CFR 983.256; Notice PIH 2012-32, REV-3]..... | 18-27 |
| | Lease Requirements [24 CFR 983.256(c); Notice PIH 2012-32, REV-3] | 18-27 |
| | Tenancy Addendum [24 CFR 983.256(d)]..... | 18-27 |
| | Initial Term and Lease Renewal [24 CFR 983.256(f); PBV Quick Reference Guide (10/14)]..... | 18-28 |
| | Changes in the Lease [24 CFR 983.256(e)]..... | 18-28 |
| | Owner Termination of Tenancy [24 CFR 983.257; Notice PIH 2012-32, REV-3] | 18-29 |
| | Continuation of Housing Assistance Payments [24 CFR 983.258; Notice PIH 2012-32, REV 3]..... | 18-30 |
| | Security Deposits [24 CFR 983.259; PBV Quick Reference Guide (10/14)]..... | 18-31 |
| | 18-VI.C. Public Housing FSS and ROSS Participants [Notice PIH 2012-32, REV-3]..... | 18-32 |
| | 18-VI.D. Resident Participation and Funding [Notice PIH 2012-32, REV-3]..... | 18-32 |
| | 18-VI.E. Moves | 18-33 |
| | Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2012-32, REV-3] | 18-33 |
| | Family Right to Move [24 CFR 983.261] | 18-34 |
| | Choice Mobility [Notice PIH 2012-32, REV-3]..... | 18-35 |
| | Turnover Cap | 18-36 |
| | 18-VI.F. Reexaminations [PBV Quick Reference Guide (10/14)]..... | 18-37 |
| | 18-VI.G. Earned Income Disallowance [Notice PIH 2012-32, REV-3]..... | 18-37 |
| | 18-VI.H. Residents' Procedural Rights [Notice PIH 2012-32, REV-3] | 18-37 |
| | 18-VI.I. Informal Reviews and Hearings [Notice PIH 2012-32, REV-3] | 18-38 |
| PART VII: | DETERMINING CONTRACT RENT..... | 18-39 |
| | 18-VII.A. Initial Contract Rents [Notice PIH 2012-32, REV-3] | 18-39 |
| | 18-VII.B. Adjusting Contract Rents [Notice PIH 2012-32, REV-3; PBV Quick Reference Guide (10/14)]..... | 18-40 |
| | Rent Decrease | 18-40 |
| | 18-VII.C. Utility Allowances [Notice PIH 2012-32, REV-3; PBV Quick Reference Guide (10/14)]..... | 18-41 |
| | 18-VII.D. Reasonable Rent [24 CFR 983.303] | 18-42 |
| | How to Determine Reasonable Rent..... | 18-42 |
| | PHA-Owned Units..... | 18-42 |

Administrative Plan -Table of Contents

PART VIII: PAYMENTS TO OWNER 18-43

- 18-VIII.A. Housing Assistance Payments 18-43
- 18-VIII.B. Vacancy Payments [24 CFR 983.352]..... 18-44
- 18-VIII.C. Tenant Rent to Owner [24 CFR 983.353]..... 18-45
 - Tenant and PHA Responsibilities 18-45
 - Utility Reimbursements 18-45
- 18-VIII.D. Phase-In of Tenant Rent Increases
[Notice PIH 2012-32, REV-3] 18-46
- 18.VIII.E. Other Fees and Charges [24 CFR 983.354] 18-46
 - Meals and Supportive Services..... 18-46
 - Other Charges by Owner 18-46

Chapter 19: Special Purpose Vouchers

Chapter 20: Temporary Purpose Vouchers: Emergency Housing Vouchers

Chapter 21; Non MTW Program: SHELTER PLUS CARE

GLOSSARY

Introduction

ABOUT THE ADMINISTRATIVE PLAN

REFERENCES CITED IN THE ADMINISTRATIVE PLAN

The authority for PHA policies is derived from many sources. Primary among these sources are federal statutes, federal regulations, and guidance issued by the U.S. Department of Housing and Urban Development (HUD). State law also directs PHA policy. State law must be followed where such law exists and does not conflict with federal regulations. Industry practice may also be used to develop policy as long as it does not conflict with federal requirements or prohibitions.

HUD

HUD provides the primary source of PHA policy through federal regulations, HUD Public and Indian Housing (PIH) notices, guidebooks and handbooks. Compliance with federal regulations, current HUD notices, and current HUD handbooks is mandatory.

HUD also provides guidance to PHAs through other means such as HUD-published guidebooks, expired HUD notices, and expired handbooks. Basing PHA policy on HUD guidance is optional, as long as PHA policies comply with federal law, federal regulations and mandatory policy. Because HUD has already determined that the guidance it provides is consistent with mandatory policies, PHA reliance on HUD guidance provides the PHA with a “safe harbor.”

Material posted on the HUD website can provide further clarification of HUD policies. For example, FAQs on the HUD website can provide direction on the application of federal regulations in various aspects of the program.

State Law

Where there is no mandatory federal guidance, PHAs must comply with state law, if it exists. Where state law is more restrictive than federal law, but does not conflict with it, the PHA should follow the state law.

Industry Practice

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. Industry practice refers to a way of doing things or a policy that has been adopted by a majority of PHAs.

RESOURCES CITED IN THE ADMINISTRATIVE PLAN

The administrative plan cites several documents. Where a document or resource is cited frequently, it may be abbreviated. Where it is cited only once or twice, the administrative plan may contain the entire name of the document or resource. Following is a key to abbreviations used for various sources that are frequently cited in the administrative plan and a list of references and document locations that are referenced in the administrative plan or that may be helpful to you.

HUD HCV Guidebook

In November 2019 HUD began issuing a new version of the HCV Guidebook chapter-by-chapter. Unlike the previous version of the HCV Guidebook in which chapters were numbered, the new version of the guidebook includes chapter names, but no numbers. As the new version of the guidebook has not yet been fully released, and since the previous version of the guidebook contains guidance not found in the new version, the policy cites both versions of the guidebook. Therefore, where the HCV Guidebook is cited in the policy, the citation will make a distinction between the “old” and “new” versions of the guidebook. The “old” version of the guidebook will continue to be cited as *HCV GB* with a chapter/page reference (example: HCV GB, p. 5-4). If HUD has also released a new chapter on the same topic with information that either adds new information or updates existing information from the previous guidebook, the new guidebook will be cited as *New HCV GB* with a chapter title and page reference (example: New HCV GB, *Payment Standards*, p. 11). On September 29, 2023, HUD issued Notice PIH 2023-27 to implement sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA). The notice supersedes relevant portions of the guidebook, specifically the chapters on eligibility, denials, and annual reexaminations and interim reexaminations. Where chapters have not been altered by the HOTMA implementation notice, the model policy continues to cite the HCV Guidebook.

Abbreviations

Throughout the administrative plan, abbreviations are used to designate certain documents in citations. The following is a table of abbreviations of documents cited in the administrative plan.

| Abbreviation | Document |
|--------------|--|
| CFR | Code of Federal Regulations |
| HCV GB | Housing Choice Voucher Program Guidebook (7420.10G) https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook |
| HUD-50058 IB | HUD-50058 Instruction Booklet |
| RHIIP FAQs | Rental Housing Integrity Improvement Program (RHIIP) Frequently Asked Questions. |
| VG | PIH Notice 2004-01 Verification Guidance, March 9, 2004. |
| HB 4350.3 | Occupancy Requirements of Subsidized Multifamily Housing Programs |

Resources and Where to Find Them

The HUD website is <https://www.hud.gov/>.

Guidebooks, handbooks, and other HUD resources may be found at the HUDClips website: https://www.hud.gov/program_offices/administration/hudclips.

Following is a list of resources helpful to the PHA or referenced in the model administrative plan, and the online location of each.

| Document and Location |
|--|
| Code of Federal Regulations https://www.ecfr.gov/ |
| Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf |
| Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF |
| Executive Order 11063 https://www.archives.gov/federal-register/codification/executive-order/11063.html |
| Federal Register https://www.federalregister.gov/ |
| Housing Choice Voucher Program Guidebook (7420.10G), Updated Chapters https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook |

| |
|--|
| <p>HOTMA Final Rule https://www.federalregister.gov/documents/2023/02/14/2023-01617/housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104?utm_campaign=subscription+mailing+list&utm_source=federalregister.gov&utm_medium=email</p> |
| <p>HOTMA Implementation Notice, PIH 2023-27</p> |
| <p>Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf</p> |
| <p>Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007 https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf</p> |
| <p>Notice PIH 2010-26 (HA), Nondiscrimination and Accessibility Notice https://www.hud.gov/sites/documents/DOC_8993.PDF</p> |
| <p>Notice PIH 2017-12, Administrative Guidance for Effective and Mandated Use of the Enterprise Income Verification (EIV) System https://www.hud.gov/sites/documents/PIH2017-12EIVNOTICE.PDF</p> |
| |
| |
| |
| |
| |
| <p>VAWA Resources https://www.hud.gov/vawa</p> |

[Fair Market Rents established by HUD Annually \(Portland-Vancouver-Hillsboro\):](https://www.huduser.gov/portal/datasets/fmr.html)
<https://www.huduser.gov/portal/datasets/fmr.html>

[Income Limits established by HUD Annually \(Portland-Vancouver-Hillsboro\):](https://www.huduser.gov/portal/datasets/il.html)
<https://www.huduser.gov/portal/datasets/il.html>

Chapter 1

OVERVIEW OF THE PROGRAM AND PLAN

INTRODUCTION

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

This chapter contains information about the Housing Authority of Clackamas County (HACC) 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: HACC. This part includes a description of HACC, its jurisdiction, its programs, and its mission and intent.

Part II: The HCV Program. This part contains information about the HCV 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: HACC

1-I.A. OVERVIEW

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

1-I.B. ORGANIZATION AND STRUCTURE OF HACC

The Section 8 Housing Choice Voucher (HCV) assistance programs (tenant and project based) are funded by the federal government and administered by the **HACC** for the jurisdiction of **Clackamas County, Oregon (County)**.

Bylaws for the Housing Authority identify that the officers of HACC are known as commissioners or, collectively, as the Board of Commissioners (Board). The Board consists of the seven (7) commissioners. Five (5) Commissioners shall be that of the governing body of Clackamas County referred to as the elected Board of County Commissioners, one Board-appointed HACC Resident Commissioner who receives direct assistance from the Housing Authority, and one appointed resident of the County. The Board generally serves in the same capacity as the directors of a corporation, establishing policies under which HACC conducts business, ensuring that policies are followed by HACC staff and ensuring that HACC is

successful in its mission. The Board is responsible for preserving and expanding HACC's resources and assuring HACC's continued viability.

Formal actions of HACC are taken through written resolutions, adopted by the Board and entered into the official public records of HACC and the County.

The chief administrative officer of HACC is the executive director (ED). The ED is directly responsible for all aspects of the management of HACC and for carrying out the policies established by the Board. The ED is responsible for hiring, training and supervising HACC's staff in order to manage the day-to-day operations and to ensure compliance with federal and state laws and directives for the programs managed. In addition, the ED's duties include budgeting and financial planning for the agency and coordinating HACC's efforts with the plans and programs of other local, regional, state and federal agencies, as well as the public or private agencies or organizations that may be of assistance to HACC or that HACC may assist.

HACC is a "Moving to Work" (MTW) agency as of January 1, 2023. MTW is a federal program administered by HUD that gives a PHA the flexibility to design and test various approaches for providing and administering housing assistance that reduce cost and achieve greater cost effectiveness in federal expenditures; give incentives to families with children where head of household is working, seeking work, or is participating in job training, educational or other programs that assist in obtaining employment and becoming economically self-sufficient; and increase housing choices for low-income families.

1-I.C. HACC's 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.

HACC Mission

The mission of the Housing Authority is to provide and develop affordable housing with supportive services for individuals and families on their path to improved health, wellness, prosperity and inclusion. In order to sustain these services, we prioritize equitable service delivery, financial sustainability, and thriving partnerships to ensure our long-term viability.

1-I.D. HACC's PROGRAMS

The following programs are included under this administrative plan:

HACC Policy

HACC's administrative plan is applicable to the operation of the following programs:

1. The Housing Choice Voucher (HCV) includes Project Based Vouchers (PBV), Stability Vouchers and Fair Share Housing vouchers program.
2. The Mainstream Voucher program.

3. The Housing Choice Voucher Family Self Sufficiency (FSS) program in conjunction with the HUD required FSS Action Plan
4. The Shelter Plus Care program (SPC) will be guided by this Administrative Plan where other specific guidance is not provided by the SPC regulations.
5. The Veterans Affairs Supportive Housing (VASH) Program.
6. The Enhanced Voucher Program where other specific guidance is not provided by the Enhanced Voucher Program regulations.
7. Tenant Protected Vouchers (TPV)
8. The Foster Youth to Independence Program (FYI)
9. Rental Assistance Demonstration (RAD) Voucher Program.
10. Emergency Housing Voucher (EHV) program.

1-I.E. THE HACC'S COMMITMENT TO ETHICS AND SERVICE

As a public service agency, HACC is committed to providing excellent service to HCV program participants, owners, and to the community. HACC's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in performance 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 equal 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 HACC'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 HACC's support systems and a high level of commitment to our employees and their development.

HACC 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.

1-I.F. Code of Conduct

A. Employee

1. Pursuant to the requirement of 24CFR84.42, Codes of Conduct, and 24CFR85.36, Procurement standards, no employee, officer or agent of the Housing Authority shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of his immediate family, his or her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the entity selected for award.

2. Without the prior approval of the ED, employees are prohibited from:
 - (a) Processing an application (or any part of an application) or any recertification for a relative, friend, co-worker, or business associate or on behalf of a relative or business associate of a co-worker;
 - (b) Serving as third party verification or as a reference for anyone applying or being recertified for housing assistance with HACC;
 - (c) Participating in an assisted housing program administered by HACC, either as a tenant or as a landlord with the exception of Section 3 hires;
 - (d) Entering into contracts or agreements in connection with the tenant-based programs in which any of the classes of persons outlined under 24CFR982.161, Conflict of Interest, has any interest, direct or indirect. Prior HUD approval is required if it is necessary to enter into such a contract or agreement.
 - (e) Inspecting units associated with the tenant-based programs if the employee has any direct or indirect interest.
3. Pursuant to 24CFR84.42, Codes of Conduct, The Housing Authority's officers, employees or agents will neither solicit nor accept gifts, gratuities, favors or anything of monetary value from parties to any agreement involving federal funds.
4. All employees shall follow the Ethical Standards Governing Employee Conduct defined in the Housing Authority's Personnel Policy, Section XIV.
5. Employees found to be in violation of any of the Code of Conduct Policy guidelines mentioned above will be disciplined according to the Housing Authority's Personnel Policy, Section XVI.
6. Employees must report any personal relationship with an applicant or tenant receiving assistance to the Program Manager. Personal relationship defined as Employees with a relationship cannot handle any aspect of the applicant or tenant process. Employees shall not date or have romantic relationships with Tenants under any circumstance.
7. Employees must adhere to the Code of Conduct of the Health Housing and Human Resources Department and the Housing Authority Union Contract.

B. Family

Program abuse, by the participants, such as misrepresenting income, assets, deductions or family composition, or initiating and participating in bribes, or other illegal activities, will be dealt with as follows:

1. The matter shall be investigated by HACC to determine if the misrepresentation was intentional;
2. The matter shall be discussed with the participant, and they will be advised that HACC has a right to terminate assistance;
3. Administrative remedies will be sought, and may include one or more of the following: Repayment of HAP by the participant; termination of assistance; and/or requiring the family to move to an appropriate unit (in cases of falsification of family size);
4. Where program abuse was willful and intentional, HACC will forward all pertinent information to the Director of Health, Housing and Human Services and Clackamas County Human Resources to determine if at the level requiring it to be reported to the Office of the Inspector General.
5. HACC has established a working relationship with the State Fraud Investigator at the Department of Human Services (DHS) who will assist in investigations of fraud involving false information from a Tenant regarding Income or Family composition which also impacts other State benefits such as TANF and SNAP.

C. Owner

Program abuse by owners includes collecting side payments, collecting assistance for units not occupied by Section 8 families, collecting false vacancy loss or damage claims, and bribery. Owners shall be dealt with as follows:

1. The matter shall be investigated by HACC to determine if the abuse was intentional and willful;
2. The matter will be discussed with the owner, if the abuse seems to be due to a mistake or an oversight;
3. Administrative remedies will be sought, such as repayment, termination of the HAP contract, and abatement of HAP;
4. If HACC determines that the abuse is serious, willful and intentional, HACC will forward its information to the Director of Health, Housing and Human Services and Clackamas County Human Resources to determine if at the level requiring it to be reported to the Office of the Inspector General;
5. HACC may determine to restrict the owner from participating on the Section 8 program for a reasonable period of time (commensurate with the seriousness of the offense), if the abuse is considered widespread and serious;

6. If an owner has been determined to owe HACC money, and has a current contract with HACC, payment will be withheld from the existing contracts, until such outstanding amount has been collected.

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 to better understand 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 HCD Act of 1987 authorized a new version of tenant-based assistance – the Section 8 Voucher (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.

On July 29, 2016, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) was signed into law. HOTMA made numerous changes to statutes governing HUD programs, including sections of the United States Housing Act of 1937. Title I of HOTMA contains 14 different sections that impact the public housing and Section 8 programs. The Final Rule implementing broad changes to income and asset in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule.

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 HUD. HACC is afforded choices in the operation of the program which are included in the HACC's administrative plan, a document approved by the HACC Board of Commissioners.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in HACC's jurisdiction and may also be eligible to move under portability to other PHAs' jurisdictions.

When a family is determined to be eligible for the program and funding is available, HACC issues the family a HCV. When the family finds a suitable housing unit and funding is available, HACC 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. HACC 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

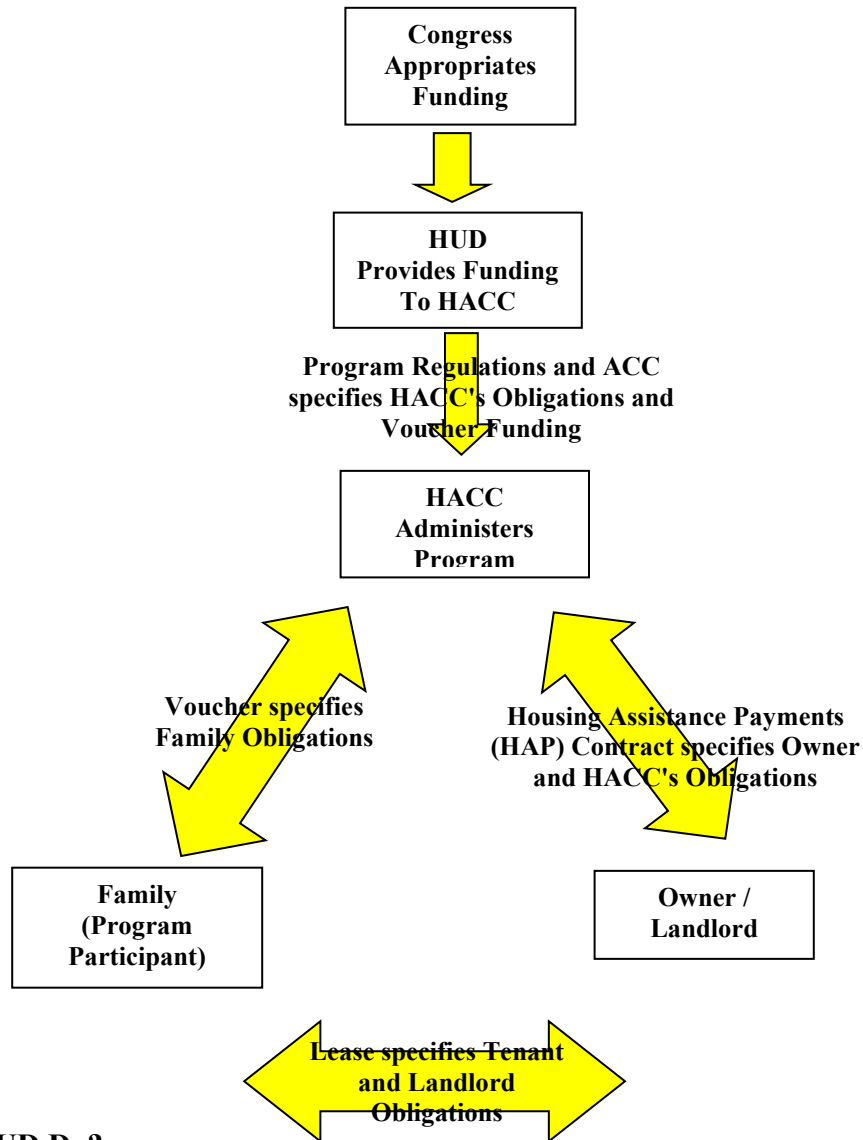
To administer the HCV program, HACC enters into a contractual relationship with HUD (Consolidated Annual Contributions Contract). HACC also enters into contractual relationships with the assisted family and the owner or landlord of the housing unit.

For the HCV program to work and be successful, all parties involved – HUD, HACC, 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.

This chart illustrates key aspects of these relationships.

The HCV Relationships:



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 HACC;
- Provide technical assistance to HACC on interpreting and applying HCV program requirements;
- Monitor HACC's compliance with HCV program requirements and HACC's performance in program administration.

What Does HACC Do?

HACC administers the HCV program under contract with HUD and has the following major responsibilities:

- Establish local policies to administer the program;
- Review applications from interested applicants to determine whether they are eligible for the program;
- Maintain a waiting list and select families for admission;
- Issue vouchers to eligible families and provide information on how to lease a unit;
- 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;
- Recertify families for continued eligibility under the program;
- Ensure that owners and families comply with their contractual obligations;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the ACC, 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 suitability as renters.
 - HACC 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 HACC;
- Comply with all applicable fair housing laws and do not discriminate against anyone.
- Maintain the housing unit in accordance with Housing Quality Standards (HQS) and make 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 HACC with complete and accurate information, determined by HACC to be necessary for administration of the program;
- Make their best and most timely efforts to locate qualified and suitable housing;
- Attend all appointments scheduled by HACC;
- Allow HACC 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 HACC 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 HACC of any changes in family composition;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 100: The Fair Housing Act
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Based Vouchers
- 24 CFR Part 985: The Section 8 Management Assessment Program (SEMAP)
- 24 CFR Part 576: Shelter Plus Care
- 24CFR Part 578: Shelter Plus Care
- Consolidated Appropriations Act, 2016

PART III: THE HCV ADMINISTRATIVE PLAN

1-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 PHA's agency plan. This administrative plan is a supporting document to HACC's annual and five-year agency plan and is available for public review as required by CFR 24 Part 903.

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

HACC 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.

HACC MTW Policies effective July 1, 2024

Policies established by HACC under its MTW authority are identified as "MTW" throughout the administrative plan with the effective date of implementation. For non-MTW programs, the policies are governed by federal regulations as listed throughout the plan.

HACC HOTMA Policies effective January 1, 2025

Policies established by HACC under its HOTMA authority are identified as "HOTMA" throughout the administrative plan with the effective date of implementation.

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

1-III.B. CONTENTS OF THE PLAN [24 CFR 982.54]

The HUD regulations at 24 CFR 982.54 define the policies that must be included in the administrative plan. They are as follow:

- Selection and admission of applicants from the HACC waiting list, including any HACC admission preferences, procedures for removing applicant names from the waiting list, and procedures for closing and reopening HACC's waiting list (Chapter 4);
- Issuing or denying vouchers, including PHA policy governing the voucher term and any extensions of the voucher term. If the PHA decides to allow extensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions, and how the PHA determines the length of any extension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to HACC 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 what 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, illegal use of drugs 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 process for establishing and revising voucher payment standards, including policies on administering decreases in the payment standard during the HAP contract term (Chapter 16);
- The policies and procedures for Shelter Plus Care (Chapter 18) Family Self Sufficiency Addendum (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 HACC of amounts the family owes the HACC (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 to charge the administrative fee reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- HACC screening of applicants for family behavior or suitability for tenancy (Chapter 3).

- Policies governing the project-basing of vouchers in both the standard Project-Based Voucher (PBV) program (Chapter 17) and the RAD Project-Based Voucher program (Chapter 18); and
- Special policies governing any special purpose vouchers issued by the PHA (Chapter 19).

Mandatory vs. Discretionary Policy

HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, State law, 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 adopt local policies and procedures that are consistent with mandatory policies in areas where HUD gives the PHA discretion. HACC's administrative plan is the foundation of those policies and procedures. HUD's directions require PHAs to make policy choices that provide sufficient guidance to staff and ensure consistency to program applicants and participants.

Creating policies based upon HUD guidance is not mandatory but provides HACC 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

HACC will revise this administrative plan as needed to comply with changes in HUD regulations. HUD mandated policies will not require Board review as they are mandated. Any policy that is optional or requires a discretionary decision must be approved by the Board. Any changes made will be noted in the Agency Plan and a copy provided to HUD.

HACC Policy (MTW) – Effective July 1, 2024

HACC will review and update the plan as needed, to reflect changes in regulations, HACC operations, or when needed to ensure staff consistency in operation. Reviewed at least annually with the Annual Plan.

Due to the housing crisis in our region and our mission to end homelessness, changes that are to the benefit of the client (reducing tenant portion of rents, tenant burden on reporting or barriers to stabilizing housing) can be adopted prior to final Board approval with a clearly documented Internal Memo documenting the impact and reason for change and effective date of implementation; however, all changes must ultimately be run by the

RAB and receive Board approval at the next Annual Plan review. If at the time of Annual Review, a decision is made by the RAB or Board do not approve a policy implemented, HACC will retract the policy effective the Annual Plan approval date. HACC will not make any retroactive adjustments related to a retraction.

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 HACC's policies related to these topics in three parts:

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

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the HCV 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 III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of the PHA to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register*.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and participants equally, providing the same opportunity to access services, 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. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. HACC 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 and 13988

- 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 Act (VAWA)
- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012, and further clarified in Notice PIH 2014-20

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 will also apply.

HACC Policy

HACC will apply any and all fair housing state laws and local city and county codes that apply including but not limited to: ORS659A-145 & 421, Lake Oswego City Code Chapter 34.22.060 and Portland City Code Chapter 23.01

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as PHA policies, can prohibit discrimination based on other factors.

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.

The PHA will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12; Executive Order 13988].

HACC Policy

In addition to Federal protected classes, HACC will not discriminate on the basis of legal sources of income, sexual orientation, gender identity, domestic partnership, marital status, and age.

HACC 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.
- Subject anyone to sexual harassment.

- 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

HACC must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, HACC 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.

2-I.C. DISCRIMINATION COMPLAINTS

General Housing 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. The PHA should make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action.

In all cases, the PHA will advise the family that they may file a fair housing complaint if the family feels they have been discriminated against under the Fair Housing Act.

HACC Policy

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

Within 10 business days of receiving the complaint, the PHA will investigate and attempt to remedy discrimination complaints made against the PHA. The PHA will also advise the family of their right to file a fair housing complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The fair housing poster, posted in conspicuous and accessible locations in PHA lobbies, will reference how to file a complaint with FHEO.

The PHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

Complaints under the Equal Access Final Rule [Notice PIH 2014-20]

Notice PIH 2014-20 requires an articulated complaint process for allegations of discrimination under the Equal Access Final rule. The Equal Access Final Rule requires that PHAs provide equal access regardless of marital status, gender identity, or sexual orientation. The PHA will be informed of these obligations by the HUD Field Office or FHEO when an Equal Access complaint investigation begins.

HACC Policy

Applicants or tenant families who believe that they have been subject to unlawful discrimination based on marital status, gender identity, or sexual orientation under the Equal Access Rule may notify the PHA either orally or in writing.

Within 10 business days of receiving the complaint, the PHA will provide a written notice to those alleged to have violated the rule. The PHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

The PHA will attempt to remedy discrimination complaints made against the PHA and will conduct an investigation into all allegations of discrimination.

Within 10 business days following the conclusion of the PHA's investigation, the PHA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

The PHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

VAWA Complaint Processing [Notice FHEO 2023-01]

A complainant may, not later than one year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one-year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more than one year after the alleged violation occurred or terminated, FHEO may, but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.

Complaints do not need to allege a violation of the Fair Housing Act for FHEO to accept and investigate the complaint.

HACC Policy

Applicants or tenant families who wish to file a VAWA complaint against the PHA may notify the PHA either orally or in writing.

The PHA will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The PHA will inform the family that not later than one year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.

The PHA will attempt to remedy complaints made against the PHA and will conduct an investigation into all allegations of discrimination.

The PHA will keep a record of all complaints, investigations, notices, and corrective actions. (See Chapter 16.)

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. HACC must ensure that persons with disabilities have full access to HACC's programs and services. This responsibility begins with the first contact by an interested family and continues through every aspect of the program.

HACC Policy

Information on the availability of reasonable accommodation will be provided to all families at the time of application, orientation and is available on our website. HACC will also ask all applicants and participants if they require any type of accommodation, in writing, on the intake application, reexamination documents, and notices of adverse action by HACC. HACC will keep an updated Reasonable Accommodation Procedure in place for staff to rely upon for uniformity in treatment.

The Occupancy Specialist will be the primary contact for a client to request a reasonable accommodation. This will be posted in the Notice for Reasonable Accommodation. The Operations Manager will act as the 504/Reasonable Accommodation Coordinator for the Tenant-Based rental assistance programs. All Reasonable accommodation requests will be forwarded to the Coordinator for review and determination of status.

The PHA will display posters and other housing information and signage in locations throughout the PHA's office in such a manner as to be easily readable from a wheelchair.

2-II.B. DEFINITION OF REASONABLE ACCOMMODATION

A reasonable accommodation is an adjustment made to a rule, policy, practice, or service that allows a person with a disability to have equal access to the HCV program. For example, reasonable accommodations may include making home visits, extending the voucher term, or approving an exception payment standard in order for a participant to lease an accessible dwelling unit. A reasonable accommodation cannot change a regulation or law.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for HACC 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, HACC will modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

- Permitting applications and reexaminations 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 HACC's range) if HACC determines this is necessary to enable a person with disabilities to obtain a suitable housing unit.

HACC Policy

When a family that includes a person with disabilities requires an exception payment standard as a reasonable accommodation, HACC may approve or deny requests for exceptions not to exceed 120% of the applicable FMR.

Requests for exception payment standards over 120% of FMR will be forwarded to HUD headquarters, with supporting documentation as described in Notice PIH 2010-11.

HACC will maintain file documentation as required by HUD, including documentation of rent reasonableness and documentation of unit features required by the disabled family member.

- 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 HACC staff.

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 what 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 connection, or nexus, between the requested accommodation and the individual's disability.

HACC Policy

HACC will encourage the family to make its request in writing using a reasonable accommodation request form. However, HACC will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted. However, a written verification of disability will be required before any request is considered.

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, HACC 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 HACC's programs and services.

If a person's disability is obvious, or otherwise known to HACC, 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 HACC, HACC 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, HACC 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]
- HACC must request only information that is necessary to evaluate the disability-related need for the accommodation. HACC will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that the PHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the PHA will dispose of it. In place of the information, the PHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

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:

- 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.

HACC Policy

After a request for an accommodation is presented with a verification of disability, the HACC will respond, in writing, within 14 business days.

HACC will notify in writing if the request is approved. If the household is homeless, email may suffice as notification. Except in cases where an accommodation is requested for an extension on a voucher, the notification may only come by phone call to the client to put into immediate effect followed by written notice (email or mail).

Any accommodation may be reviewed by HACC at reexamination requiring the family to again verify the need for the accommodation. Each accommodation request stands on its own and a prior accommodation does not require HACC to continue with the same accommodation year after year.

If HACC 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 PHA's operations), HACC will notify the family in writing and allow for a 10 day response for a hearing on the matter.

If the PHA denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal the PHA's decision through an informal review (if applicable) or informal hearing (see Chapter 16).

If HACC determines an alternate accommodation exists, it will notify the family in writing and allow for a 10 day response to discuss with the family the alternative accommodation and if it fully addresses the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

If HACC believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, HACC will notify the family, in writing, of its determination within 14 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.

HACC Policy

To meet the needs of persons with hearing impairments, 711 is the local phone relay system we rely on, text, and email will be also used.

To meet the needs of persons with vision impairments, Braille, large-print, and audio versions of key program documents can be made available upon request. Since large print and audio presentation are a much more cost-effective alternative accommodation, HACC reserves the right to charge direct fees for the cost of converting documents to Braille and must notify requestor of any fees that will be charged before acquiring the service to convert documents to Braille.

When visual aids are used in public meetings or presentations, or in meetings with HACC staff, one-on-one assistance will be provided upon request.

Additional examples of alternative forms of communication are sign language interpretation; 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 2010-26
- 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 2010-26 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, HACC will include a current list of available accessible units known to HACC.

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 an informal review. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review process.

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

When reviewing reasonable accommodation requests, HACC will consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to HACC's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, HACC will 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 (LEP) Persons 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 PHA will take affirmative steps to communicate with people who need services or information in a language other than English. 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, HACC 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 HCV 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 HACC and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on HACC.

2-III.B. ORAL INTERPRETATION

The PHA will offer competent interpretation services free of charge, upon request, to the LEP person.

HACC Policy

HACC will utilize a language line for telephone interpreter services. Where feasible, the PHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents. Where feasible and possible, the PHA 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 PHA. The interpreter may be a family member or friend.

When exercising the option to conduct remote briefings, informal reviews, or hearings, however, the HACC will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

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 HACC. The HACC, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, the HACC will not rely on the minor to serve as the interpreter.

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

Where feasible and possible, according to its language assistance plan (LAP), the PHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

2-III.C. WRITTEN TRANSLATION

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

HACC Policy

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

HACC 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, HACC 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 what language assistance services are appropriate, HACC shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

If HACC 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 HACC's HCV program and services.

HACC Policy

HACC has developed an agency wide LEP Policy. The Policy will be reviewed periodically and revised as needed to meet its population's needs.

**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 intellectual impairment/disabilities, 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, intellectual impairment/disabilities, 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 PHA) 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.

EXHIBIT 2-2:

Addendum 1

Board Approved June, 2010

Affirmatively Furthering Fair Housing Requirements For all Federal Grant Funded Programs

This Addendum outlines specific procedures in place not directly addressed in the Administrative Plan or indicates where the policy is located in the Administrative Plan that meets general Affirmatively Furthering Fair Housing grant requirements.

1. Per the requirements of 24 CFR 903.7 (o), HACC examines its programs and proposed programs annually through its Annual Plan process and SEMAP certification review and identifies any impediments to fair housing choice within its programs. HACC addresses any impediments in a reasonable fashion in view of the resources available and identifies any changes to policy, procedures, facilities or programs in its Annual Plan for implementation. HACC maintains records reflecting these analyses and actions at its Administrative Building and Capital Fund Program Offices. HACC Fair Housing Policy is detailed in its Administrative Plan at Chapter 2. For example, HACC added a Limited English Proficiency (LEP) policy in 2008 and updated its entire Administrative Plan in 2010.
2. HACC actively works with local jurisdictions to implement initiatives to affirmatively further fair housing. HACC has a long-standing relationship with the Clackamas County Housing Rights and Resources Program (HRRP) - formerly known as "Fair Housing." HRRP is a partnership of Clackamas County Social Services, Legal Aid Services of Oregon, and the Fair Housing Council of Oregon. The partnership was initiated to address housing needs in Clackamas County. It represents a proactive and collaborative approach to dealing with a wide range of housing challenges and opportunities across Clackamas County. As a collaborative team, the agencies in the partnership pool resources and expertise to provide:
 - Education on Housing Discrimination and Fair Housing Laws
 - Education on Landlord/Tenant laws
 - Fair Housing Counseling
 - Legal Services related to Fair Housing, Reasonable Accommodation, and Landlord/Tenant Issues
 - Housing Information and Referral Services

Calls to HACC on the issues in the list above are referred directly to the Housing Rights and Resources Program (HRRP) located at Clackamas County Social Services. The calls are taken initially by HRRP staff that triages the calls. The types of inquiries received range from an immediate need for shelter, questions about evictions and proper notices under landlord/tenant law, to fair housing law violations. Many of the questions can be answered and referrals made directly by HRRP staff.

As needed, however, calls are dispatched to one of the partner organizations based on the needs of the caller and the expertise of the organization. Legal Aid Services provide legal assistance to low-income residents in fair housing, reasonable accommodation, and landlord/tenant matters. The Fair Housing Council of Oregon conducts trainings on housing discrimination

3. HACC contracts with a case manager who assists applicants to gain access to supportive services available within the community but does not require eligible applicants or participants to accept such supportive services as a condition of continued participation in the program. HACC has established working relationships with Clackamas County Community Health (CCCH), Clackamas County Social Services (CCSS), and Oregon Department of Human Services (DHS). HACC has other service providers it has established working relationships with such as Rent Well, TeleCare Act, and Northwest Housing Alternatives. HACC has in many cases formalized Memorandums of Understanding or Intergovernmental Agreements with the various agencies needed to provide services to our clients. HACC provides listings of services to clients as needed.
4. HACC works with Clackamas County Community Development Division (CCCDD) to provide participants with assistance in covering the costs of structural alterations and other accessibility features that are needed as accommodations for their disability. Specifically, HACC refers clients to the Home Access program at CCCDD. HACC has assisted clients in applying for and seen its clients successfully funded for ramps and bathroom accessibility grants.
5. HACC provides a listing of accessible units in the area. It also works with resource agencies in such as CCSS and CCCH to provide housing search assistance.
6. HACC's briefing packets include fair housing rights information and discrimination complaint information. Currently HACC distributes HUD Forms 1686 and 903.1. Fair Housing is discussed on page 117 of our Administrative Plan.
7. HACC policies address providing alternate formats for forms and communications including Fair Housing documentation for participants with disabilities start at page 55 of the Administrative Plan.
8. HACC has adopted procedures for extending or suspending housing search time for people with disability when necessary at page 124 of its Administrative Plan.
9. HACC has adopted policy to allow exceptions to payment standards when needed by participants with disabilities at page 356 of its Administrative Plan.
10. HACC has adopted policy to allow exceptions to utility allowances when needed by participants with disabilities at page 358 of its Administrative Plan.
11. HACC has adopted standards for adding additional bedrooms to size of the HCV to accommodate disabled families at page 51 and 122 of its Administrative Plan.

12. HACC has adopted policy to allow additional bedrooms to accommodate live-in aides at page 121 of its Administrative Plan.
13. HACC has adopted policies and procedures for addressing reasonable accommodation requests and notification of availability at pages 51-56 of its Administrative Plan.
14. HACC has identified one staff member as the Section 504 Coordinator who handles the review of requests and grievances.
15. HACC works with an extensive mailing list of agencies and service providers to announce programs offerings and its outreach efforts are included in the Administrative Plan Chapter 4 Opening and Closing of Wait Lists.

Chapter 3

ELIGIBILITY

INTRODUCTION

HACC 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 HACC 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 HACC.
 - Qualify as a household for the particular program for which they are on the wait list: Veteran Administration Supportive Housing (VASH), Mainstream, Foster Youth to Independence (FYI), Emergency Housing Vouchers (EHV) and Shelter Plus Care (SPC) have very specific criteria that must be met to qualify for this assistance. PBV wait list income and population served criteria by property site-based wait list must be met.
 - 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 household members as required.
 - Consent to HACC's collection and use of family information as provided for in PHA-provided consent forms.
 - Not currently receiving a duplicative subsidy.
 - Meet net asset and property ownership restriction requirements.
- HACC must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or HACC.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and HACC 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 HACC to deny assistance as well as the asset limitation for HCV.

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 5.403; FR Notice 02/03/12; Notice PIH 2014-20; and FR Notice 2/14/23]

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. *Family* as defined by HUD includes, but is not limited to the following, regardless actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or a group of persons residing together. Such group includes but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, and the remaining member of a tenant family. The PHA has the discretion to determine if any other group of persons qualifies as a family.

HACC 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 notify the PHA if the family's composition changes.

Once the initial eligibility process is completed, the changes to family composition will be allowed in accordance with policies in Section 11-II.C.

Other Family Definitions:

A child who is temporarily away from the home because of placement in foster care is considered a member of the family for up to 180 days or until next annual whichever is less.

HACC will not permit others who are currently living in independent circumstances and have done so for a period of more than six months to move in with the participating family. Such persons may apply for housing by joining the wait list for any HACC housing program when the waiting lists are open.

Exceptions:

tions:

1. A Head of Household may request to add their spouse or significant other at any time, provided the Head of Household requests written approval prior to that person moving in. The Spouse/Significant other must fill out an application, provide HACC screening information, and provide all required documentation. HACC will conduct a pre-admission screening of the proposed new member. If the screening results are unsatisfactory, the additional person will not be allowed to be added to the lease. If the person passes the screening the family will receive written approval. This written approval will come in the form of a lease rider or the approval of a new lease and execution of a new HAP contract. Additionally, the family must provide pre-approval from the landlord to add the member.
2. A written waiver may be requested for an elderly or disabled relative of the head of household or spouse to be permitted to move in with the family on a permanent basis because they require the care of their family in order to maintain an existence outside of a nursing home. The policy waiver request must include a letter from the person's physician documenting the need for this care. The Operations Manager will determine whether or not a waiver will be granted. If granted, the additional person must complete an application, pass HACC screening, and provide all required documentation. HACC will conduct a pre-admission screening of the proposed new member. If the screening results are unsatisfactory, the additional person will not be allowed to be added to the lease. If the person passes the screening the family will receive written approval. This written approval will come in the form of a lease rider or the approval of a new lease and execution of a new HAP contract. Additionally, the family must provide pre-approval from the landlord to add the member.
3. If the Head of Household's adult child has moved out of the unit and wishes to return within 13 months, he/she will be allowed to move back in only one time, pending passing HACC background screening. Adult is defined as 18 years or older at the time they wish to move back in. Any future move outs would be final. If it is the first move out but has been more than 13 months, they will not be permitted to move back in. They will need to apply to a wait list.

Other than a Spouse or Significant Other of the Head of Household, no other adult household members may return after moving out. Waivers to this provision may be requested from HACC. Each family must notify HACC if the family's composition changes within 7 days.

Household

Household is a broader term that includes additional people who, with the PHA's permission, live in an assisted unit and who are listed on the lease, 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; Notice PIH 2017-08]

Except under the following conditions, HACC has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, stalking, and human trafficking, see section 16-IX.D of this plan.)
- In accordance with Notice PIH 2017-08, for HUD–Veterans Affairs Supportive Housing (HUD–VASH) vouchers, when the veteran is the perpetrator of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the victim must continue to be assisted. Upon termination of the perpetrator's HUD–VASH voucher, the victim should be given a regular HCV if one is available, and the perpetrator's HUD–VASH voucher should be used to serve another eligible family. If a regular HCV is not available, the victim will continue to use the HUD–VASH voucher, which must be issued to another eligible family upon the voucher's turnover.
- If a court determines the disposition of property between members of the assisted family in a divorce or separation decree, HACC is bound by the court's determination of which family members continue to receive assistance.

HACC 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.

In the absence of a judicial decision, or an agreement among the original family members, HACC will determine which family retains their placement on the waiting list, or will continue to receive assistance taking into consideration the following factors: (1) who originally was issued the assistance, (2) the interest of any minor children, including custody arrangements, (3) the interest of any ill, elderly, or disabled family members, (4) the interest of any family member who is the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; (5) any possible risks to family members as a result of criminal activity; (6) if the voucher has a special population served requirement such as homeless, elderly or disabled the member

receiving assistance must meet requirement; (7) vulnerability and risks of homelessness and availability of other housing options and (8) the recommendations of social service professionals.

Essential family member is defined as a person necessarily residing with an elderly or disabled person for the mental health and welfare of the family member. The income of the essential member will be counted in determining the family's rent. The necessity for such an arrangement must be evidenced by a doctor's certificate, or must be deemed essential and so certified, by Mental Health or another responsible source. Under no circumstances will such an arrangement be permitted solely for the convenience of the family. This provision is applicable both for admission and continued occupancy. Like a Live-In-Aide (LIA), essential family members are in the unit solely to assist the family member and are not considered the remaining member of the family upon death or passing of the assisted family member unless the essential member meets all three criteria of being elderly, disabled **and** at risk of homelessness.

Exceptions for VASH and other special purpose Vouchers exist since the set-aside of VASH and other special purpose vouchers is for veterans or a specific pre-qualified requirement, the voucher will remain with the veteran or pre-qualified participant in the case of a special purpose voucher.

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.

HACC Policy

Essential family members do not qualify as a remaining family member unless meet all three criteria as verified by a medical professional: Must be elderly, disabled and at risk of homelessness.

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.

HACC 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.

HACC Policy

A *marriage partner* includes the partner in a "common law" 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.

HACC 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. DEPENDENTS AND MINORS [24 CFR 5.603]

A *minor* is a member of the family, other than the head of family or spouse, who is under 18 years of age.

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 dependent allowances as described in Chapter 6.

Joint Custody of Dependents

HACC 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 more than 50 percent of the time. In 50-50% cases, the families must decide which family will claim the child or children as family members and dependents. Only one family may claim the child or children as dependents. The dependent allowance may not be shared.

When more than one applicant or participant family is claiming the same dependents as family members or there exists a joint custody agreement, 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 PHA will make the determination based on available documents such as current court orders, or an IRS return showing which family has claimed the child for income tax purposes. In no

instance will both parents be allowed to include the “joint custody dependent” as a member of each family’s household.

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 allowance, and (2) the earned 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 elderly families qualify for the elderly family allowance as described in Chapter 6.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403]

Persons with Disabilities

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 the disabled family allowance as described in Chapter 6.

Even though persons with drug or alcohol dependencies are considered persons with disabilities, this does not prevent the PHA from denying assistance for reasons related to alcohol and drug abuse in accordance with the policies found in Part III of this chapter, or from terminating assistance in accordance with 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 expressed or implied authority to so consent.

HACC Policy

A guest can remain in the assisted unit no longer the number of days permitted by the landlord, the lease agreement or 21 days, **whichever is fewer**, during any 12-month period.

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 longer than the allowable limit). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return. Such waivers are approved by the Operations Manager.

If a guest stays 22 days or more per year the Voucher holder is required to report and/or seek to add the guest to the household properly. Failure to report can result in termination.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

A *foster adult* is a member of the household who is 18 years of age or older and meets the definition of a *foster adult* under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

A *foster child* is a member of the household who meets the definition of a *foster child* under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

Foster children and foster adults who are living with an applicant or who have been approved by the PHA to live with a participant 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].

HACC Policy

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.

Family Absence from the Unit

The family may be absent from the unit for brief periods. The PHA 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 family is residing in the unit.

HACC Policy

For anticipated absences of more than 21 consecutive days, the family must notify the HACC, in writing, within the first week of the absence. Failure to do so can result in termination from the program.

Absences which leave a unit vacant longer than 30 days will not be approved except in cases of reasonable accommodation.

If the sole member of the household is confined to a nursing home or a hospital for a period of no more than 180 consecutive calendar days, HACC will request verification from a responsible medical professional and housing assistance will be paid. If the responsible medical professional provides a determination that the person will be confined for a total of more than 180 consecutive calendar days, the client will retain the voucher, but the unit will not be considered the family's principal place of residence, and the family's housing assistance will payment will be discontinued. The family will be responsible to move out of unit or pay full rent if wish to "save" unit after 180 days absence. Over 180 days of zero HAP is an automatic termination of the voucher. Therefore, Notice of termination will be sent in accordance with Section 12-II.E. The family can request issuance of a voucher searching if choose to vacate unit while in treatment and will be granted 120 days to search.

Definitions of Temporarily and Permanently Absent

HACC Policy

Generally, an individual who is or is expected to be absent from the assisted unit for 180 consecutive calendar 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

HACC 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 HACC indicating that the student has established a separate household, or the family declares that the student has established a separate household. Separate household status may be verified with enrollment paperwork reflecting a different address or photo identification or drivers license address reflecting a different address.

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.

HACC Policy

If a child has been placed in foster care, HACC will verify with the appropriate agency whether and when the child is expected to be returned to the home. If a unification date cannot be determined, absences anticipated to be in excess of 180 days will trigger the general policy of permanently absent and HACC will subsequently reduce the voucher subsidy standard. If at move the child is not with the family, the child will not be considered a member of the family if a unification date of 180 days or less can be verified. If children are unified with parent after 180 days an interim can add back and adjust the subsidy standard accordingly.

Absent Due to Incarceration

HACC Policy

If any adult family member is incarcerated for a period of more than 30 consecutive calendar days, that person will no longer be considered a family member. The family is obligated to report this information to HACC and failure to do so can result in a termination from the program. The family must submit a document from the court or institution indicating the length of incarceration. Family members released from incarceration may be added back to the household following 3-I.B. FAMILY AND HOUSEHOLD family definition on who can be added to a household.

Absent Head, Spouse, or Co-head

HACC 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 [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].

HACC Policy

An individual confined to a nursing home or hospital on a permanent basis or in excess of 180 days is not considered a family member.

The PHA will request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and the PHA will consider, any additional documentation or evidence.

Return of Permanently Absent Family Members

HACC Policy

The family must request HACC approval for the return of any adult family members that HACC previously 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

A live-in aide is 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].

HACC 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.

The income of a live-in aide is not counted in the calculation of annual income for the family [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. Because live-in aides are not *family* members, a relative who serves as a live-in aide would not be considered a remaining member of a tenant family.

HACC Policy

HACC recognizes the need for fulltime and part time assistance for elderly and disabled persons. Full-time care is 24/7 with full time residency in the household. The other allowance for assistance is the Essential Family Member as defined under Family 3-I.B. Both LIA and Essential Family Members will complete the LIA Packet before being screened for consideration to add to household.

1. Before a live-in aide may be moved into a unit, a third-party verification must be supplied that establishes the need for 24/7 care and the fact that the person cared for will be able to remain in the unit and comply with the lease terms as the result of such care.
2. A live-in aide must be required for 24-hour care and will be required to submit a certification stating that as a live-in aide they are (1) not obligated for the support of the person(s) needing the care, (2) would not be living in the unit except to provide the

necessary supportive services, and (3) does not hold other full-time employment. A member of a household family cannot change and become a Live-In-Aide due to this definition. The live-in aide must provide a valid photo ID, SSN and must sign all applicable authorization forms for release of information.

3. Move-in of a live-in aide must not result in overcrowding of the existing unit except in extraordinary and temporary circumstances, as approved by the HACC (although, a reasonable accommodation for a resident with a disability may be to move the family to a larger unit).

4. Live-in aides have no right to the voucher as a remaining member of a participant family even when the live-in aide is a relative of the tenant renting the unit.

5. To provide 24/7 care, the live-in aide cannot work or attend school unless there is proof of a relief aide being present when not attending to the needs of the client.

6. The income of a live-in aide is not counted in determining the family's rent.

7. A live-in aide can be a single person. A live-in aide with a family may also be considered, provided that the addition of the live-in aide's family does not result in overcrowding of the existing unit. The family of the live-in aide will not be considered when assigning the voucher bedroom size. The members of the live-in-aide's family must meet the owner's screening criteria.

8. Relatives who satisfy the definitions and stipulations herein may qualify as a live-in aide but only if they sign a statement prior to moving in, acknowledging no rights to the unit as the remaining member of a participant family.

9. A live-in aide will be required to meet the owner's screening requirements with respect to past behavior, especially:

- (a)** A record of disturbance of neighbors, destruction of property, or of living or housekeeping habits, at present or at prior residences, which may adversely affect the health, safety, or welfare of other residents, neighbors or staff, or cause damage to the unit or the premises; and
- (b)** Criminal activity such as crimes of physical violence to persons or property and other criminal acts including drug-related criminal activity.

10. A live-in aide and any family members must pass HACC's criminal background screening.

11. For continued approval, the family may be required to submit a new, written request-subject to PHA verification-at each annual reexamination.

12. The PHA 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 commits drug-related criminal activity or violent criminal activity; or

The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

HACC will notify the family of its decision in writing within 10 business days of receiving all the required documentation to a request for a live-in aide.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD establishes income limits for all areas of the country and publishes them annually in the *Federal Register*. They are based upon estimates of median family income with adjustments for family size. The income limits are used to determine eligibility for the program and for income targeting purposes as discussed in this section.

Definitions of the Income Limits [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 the federal poverty level or 30 percent of the median income for the area, whichever is higher.

Area median income is determined by HUD, with adjustments for smaller and larger families. 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] and Notice PIH 2023-27]

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards. In order to be income eligible, an applicant 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]

HACC Policy

The PHA 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 selected from the PHA's waiting list.

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 HACC to establish additional categories of low-income families that may be determined eligible. The additional categories must be consistent with HACC Agency plan and the consolidated plans for local governments within HACC's jurisdiction.

HACC Policy

HACC has established the following additional categories of eligible low-income families:

- A low-income family that is displaced because of demolition or disposition of a public housing project;
- A low-income family that is residing in a multifamily rental housing project when HUD sells, forecloses or demolishes a project; and
- A low-income family that is residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term.

Using Income Limits for Targeting [24 CFR 982.201]

At least 75 percent of the families admitted to the HACC's program during its fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if HACC 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 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 counted for income targeting purposes.

Income targeting requirements do not apply to HUD-VASH vouchers. However, a PHA may choose to include the admission of extremely low-income HUD-VASH families in its income targeting numbers for the FY of a family's admittance.

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 PHA'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 as verification of their status. However, HUD regulations permit the PHA to request additional documentation of their status, such as a passport.

HACC Policy

Each family member, regardless of age, must submit the following:

1. For Citizens: Family members who claim U.S. Citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual's declaration may not be accurate.
2. For Noncitizens who are 62 years of age or older and who received assistance on June 19, 1995: (i) A signed declaration of eligible immigration status and (ii) Proof of age document;
3. For all other Noncitizens: (i) A signed declaration of eligible immigration status; and, (ii) Immigration and Naturalization Service (INS) documents of eligible immigration status; and, (iii) a signed certification consent form.

For VASH there is an exception and regulations at 24 CFR 5.216(g) only require that families provide an original, government issued document that includes the social security number. The VA's DD-214 form qualifies, or the document can be issued by a federal, state or local government agency.

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 prorated 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)]

A 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 PHA 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)].

HACC Policy

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

When HACC 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 PHA. The informal hearing with the PHA 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.

HACC Policy

HACC will verify the citizenship status of applicants at the time other eligibility factors are determined.

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2018-24]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within 6 months prior to voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of the effective date of the initial HAP contract. 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 aged 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 and 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 that each adult family member, and the head of household, spouse, or co-head, regardless of age, sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, the form HUD-52675 Debts Owed to Public Housing Agencies and Terminations, 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 consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.

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)].

However, this does not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)].

HACC Policy

The PHA has established a policy that the family's revocation of consent to allow the PHA to access records from financial institutions will result in denial of admission.

3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION [24 CFR 5.612, FR Notice 4/10/06, FR Notice 9/21/16]

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 HACC 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, HACC will rely on the following definitions [FR Notice 4/10/06, FR Notice 9/21/16].

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

HACC Policy

HACC 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:

The individual is of legal contract age under state law.

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:

The individual is at least 24 years old by December 31 of the award year for which aid is sought.

The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older.

The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual’s state of legal residence.

The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes.

The individual is a graduate or professional student.

The individual is married.

The individual has one or more legal dependents other than a spouse (for example, dependent children or elderly dependent parent)

The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local educational agency homeless liaison

The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director.

A financial aid administrator

The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

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.

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.

If the PHA determines that an individual meets the definition of a *vulnerable youth* such a determination is all that is necessary to determine that the person is an *independent student* for the purposes of using only the student's income for determining eligibility for assistance.

The PHA will verify that a student meets the above criteria in accordance with the policies in Section 7-II.E.

Institution of Higher Education

HACC 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

HACC 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

HACC 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

HACC 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.

Vulnerable Youth

HACC Policy

A *vulnerable youth* is an individual who meets the U.S. Department of Education's definition of *independent student* in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16:

The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older.

The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence.

The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

A local educational agency homeless liaison

The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director.

A financial aid administrator

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.

HACC Policy

For any student who is subject to the 5.612 restrictions, HACC 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 HACC determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, HACC 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

HACC Policy

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

If the student's parents are married and living together, HACC will obtain a joint income declaration and certification of joint income from the parents.

If the student's parent is widowed or single, HACC will obtain an income declaration and certification of income from that parent.

If the student's parents are divorced or separated, HACC 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, HACC 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. HACC 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, HACC will use the income limits for the jurisdiction in which the parents live.

3-II.F. EIV SYSTEM SEARCHES [EIV FAQs; EIV System Training 9/30/20; and Notice PIH 2023-27]

Existing Tenant Search

Prior to admission to the program, the other PHA must search for all household members using the EIV Existing Tenant Search module. The PHA must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified. The PHA must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to the PHA, and a match is identified at a multifamily property, the PHA must report the program admission date to the multifamily property and document the

notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

HACC Policy

HACC will contact the PHA, or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. HACC will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

Debts Owed to PHAs and Terminations

All adult household members must sign the form HUD-52675 Debts Owed to Public Housing and Terminations. Prior to admission to the program, the PHA must search for each adult family member in the Debts Owed to PHAs and Terminations module.

If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

HACC Policy

HACC will require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

HACC will search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, HACC will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

Income and IVT Reports

For each new admission, the PHA is required to review the EIV Income and IVT Reports to confirm and validate family reported income within 120 days of the IMS/PIC submission date of the new admission. The PHA must print and maintain copies of the EIV Income and IVT reports in the tenant file and resolve any discrepancies with the family within 60 days of the EIV Income or IVT report dates.

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. A PHA may deny assistance for an applicant because of the family's action or failure to act as described in 24 CFR 982.552 or 982.553. In this section we will discuss other situations and circumstances in which denial of assistance is mandatory for the PHA, and those in which denial of assistance is optional for the PHA.

While the regulations state that the PHA must prohibit admission for certain types of criminal activity and give the PHA the option to deny for other types of previous criminal history, more recent HUD rules and OGC guidance must also be taken into consideration when determining whether a particular individual's criminal history merits denial of admission.

When considering any denial of admission, PHAs may not use arrest records as the basis for the denial. Further, HUD does not require the adoption of "One Strike" policies and reminds PHAs of their obligation to safeguard the due process rights of applicants and tenants [Notice PIH 2015-19].

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16]. HUD codified this stance on disparate impact and discriminatory effects in a final rule dated March 31, 2023. In doing so, HUD also standardized its long-practiced three-step approach to assessing burdens of proof.

PHAs who impose blanket prohibitions on any person with any conviction record, no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then will be unable to show that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. Even a PHA with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary. To do this, the PHA must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and property and criminal conduct that does not.

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.

Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), Pub.L. 109-162]

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 is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking if the applicant is otherwise qualified for assistance
(See section 3-III.G.)

3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)] and 24 CFR 982.552(b)(6)]

HUD requires HACC to deny assistance in the following cases:

- Any member of the household has been evicted from federally assisted housing in the last five years for drug-related criminal activity. HUD permits, but does not require, HACC to admit an otherwise-eligible family if the household member has completed a HACC-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). HUD-VASH clients are exempted and cannot be denied due to an eviction from federally-assisted housing.

HACC Policy

HACC will admit an otherwise-eligible family who was evicted from federally assisted housing within the past three years for drug-related criminal activity, if HACC is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by HACC, or the person who committed the crime, is no longer living in the household.

- The HACC determines that any household member is currently engaged in the use of illegal drugs. HUD-VASH clients are exempted and cannot be denied due to current engagement in illegal drug use.

HACC Policy

- *Currently engaged in* is defined as any use of illegal drugs during the previous three months. HACC shall apply the standard of illegally using a controlled substance as defined in the Controlled Substance Act 21 U.S.C. Section 81 et. Seq. with the exception that Marijuana is not considered a controlled substance under Oregon Law. 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. HUD-VASH clients are exempted and cannot be denied due to patterns of drug and alcohol abuse.

HACC Policy

In determining reasonable cause, HACC will consider all credible evidence, including but not limited to, any record of convictions or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A record or records of arrest will not be used as the sole basis of determining reasonable cause. HACC will also consider evidence from treatment providers or community-based organizations providing services to household members. HACC shall apply the standard of illegally using a controlled substance as defined by the State of Oregon.

- Any household member that has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on premises of federally assisted housing.
- HUD-VASH clients are exempted and cannot be denied due to convictions of drug-related criminal activity or manufacture of methamphetamines.
- Any household member is currently registered as a sex offender under a State registration requirement.
- Any member of the family fails to sign and submit consent forms for obtaining information.
- The family does not meet the restrictions on net assets and real property ownership as required by 24 CFR 5.618.

3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]

There are two circumstances under which a family is ineligible to receive assistance based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed \$100,000 (adjusted annually by HUD).

Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property; and
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under [24 CFR 982.620](#) or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
 - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered *suitable for occupancy* unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.).
- Is not sufficient for the size of the family.

HACC Policy

The PHA defines *not sufficient for the size of the family* as being overcrowded based on the PHA's subsidy standards in Chapter 5 of this policy.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner).

- Is not safe to reside in because of the physical condition of the property (e.g., property’s physical condition poses a risk to the family’s health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the state or local laws of the jurisdiction where the property is located.

3-III.D. 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.

HACC Policy

If any household member is currently engaged in or has engaged in any of the following criminal activities, within the past three 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].

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.

Immediate vicinity means within a three-block radius of the premises.

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse; or

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

Evidence of such criminal activity includes, but is not limited to:

Any conviction for drug-related or violent criminal activity within the past three years.

Records of arrests for drug-related or violent criminal activity within the past three years, although a record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

In making its decision to deny assistance, the PHA will consider the factors discussed in Section 3-III.F and 3-III.G. Upon consideration of such factors, the PHA 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.

PHAs are not permitted to deny assistance to a family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program [24 CFR 984.101(d)].

HACC Policy

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

The family does not provide information that the PHA or HUD determines is necessary in the administration of the program.

The family does not provide complete and true information to the PHA.

Any family member has been evicted from federally assisted housing in the last three years.

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 Section 8 or other public housing assistance under the 1937 Act, 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 the PHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.

When denying admission due to family debts as shown in HUD's EIV system, the PHA will provide the family with a copy of the EIV Debt Owed to PHA and Termination report.

If the family wishes to dispute the information in the report, the family must contact the PHA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to the PHA to support the family's claim. The PHA will consider the information provided by the family prior to issuing a notice of denial.

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 deny assistance, the PHA will consider the factors discussed in Section 3-III.F and 3-III.G. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny assistance.

3-III.E. 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 HACC in complying with HUD requirements and HACC 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 HACC must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

HACC Policy

The PHA will perform a criminal background check through Yardi or its contracted screening service for every adult household member.

HACC will require some proof of photo identification, such as a driver's license, school identification, etc. Other means of identification and requests to allow additional time to provide photo identification will be considered.

If the results of the criminal background check indicate that there may be past criminal activity, older than 3 years prior to intake no further research will be completed.

All applicants must be denied for: Debts owed to a PHA that are not paid in full; prior terminations from a PHA as showing in EIV; Registered Sex Offenders; and Manufacture of Methamphetamines in federally subsidized housing.

While a PHA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, PHAs may not use records for this purpose.

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)].

HACC Policy

HACC will use a national sex offender database to screen applicants for admission. If HACC is given information of sex offender status existing and not found, it will submit to the Department of Justice (DOJ) a request for matching information.

Additionally, HACC must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state [Notice PIH 2012-28].

If HACC proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, HACC 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 has the authority to conduct additional screening to determine whether an applicant is likely to be a suitable tenant.

HACC Policy

HACC will not conduct additional screening to determine an applicant family's suitability for tenancy.

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.

HACC may not disclose to the owner any confidential information provided to HACC by the family in response to a HACC request for documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking except at the written request or with the written consent of the individual providing the documentation [see 24 CFR 5.2007(a)(4)].

HACC Policy

HACC 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 initial inspection or before. HACC will not provide any additional information to the owner, such as tenancy history or criminal history, etc.

3-III.F. CRITERIA FOR DECIDING TO DENY ASSISTANCE

Evidence [24 CFR 982.553(c)]

HACC Policy

HACC 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 mandatory (see Section 3-III.B).

HACC Policy

HACC will consider the following facts and circumstances prior to making its decision:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property.

The effects that denial of assistance may have on other members of the family who were not involved in the action or failure to act.

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, sexual assault, stalking, or human trafficking.

The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future.

While a record or records of arrest will not be used as the sole basis for denial,

evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

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 must be considered. HACC 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

Should the PHA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must deny admission to the family [Notice PIH 2012-28].

For other criminal activity, the PHA may permit the family to exclude the culpable family members as a condition of eligibility.

[24 CFR 982.552(c)(2)(ii)].

HACC 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, stay as a guest, or reside in the assisted unit.

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.

HACC Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, HACC will determine whether admitting the family as a reasonable accommodation is appropriate. HACC 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.G. NOTICE OF ELIGIBILITY OR DENIAL

If the family is eligible for assistance, HACC will notify the family in writing and schedule a tenant briefing, 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.

HACC Policy

The family will be promptly notified of a decision to deny assistance in writing.

If HACC 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 HACC 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)]. HACC 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)].

HACC Policy

If, based on a criminal record or sex offender registration information, an applicant family appears to be ineligible HACC will notify the family in writing of the denial and provide a copy of the record to the applicant and subject of the record. The written denial letter will give the family thirty days to request an informal review or provide information disputing the accuracy or relevance of the record. If they do not call or write to schedule a review within that 30 day time period, they will lose their opportunity for housing assistance and the denial will stand. If they do not show up for a scheduled review the denial will stand. If the family is able to provide sufficient documentation that the information is inaccurate prior to a review the Housing Authority may be able to move forward with assistance without an informal review.

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, sexual assault, stalking, or human trafficking are contained in Section 3-III.H.

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND HUMAN TRAFFICKING

The Violence against Women Act (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit PHAs from denying an applicant admission to the HCV program “on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, if the applicant otherwise qualifies for assistance or admission.”

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD’s recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

Definitions of key terms used in VAWA are provided in section 16-IX of this plan, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

Notification

VAWA requires PHAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD-5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

HACC Policy

HACC acknowledges that a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under HACC’s policies.

While the PHA is not required to identify whether adverse factors that resulted in the applicant’s denial are a result of domestic violence, dating violence, sexual assault, stalking, or human trafficking the applicant may inform the PHA that their status as a victim is directly related to the grounds for the denial. The PHA will request that the applicant provide enough information to the PHA to allow the PHA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

HACC will include language in its notice of denial the VAWA information described in section 16-IX.C. The family may request a form HUD-5382 as outlined in the denial

letter. The PHA will request that an applicant wishing to claim protection under VAWA notify HACC within 10 business days.

Documentation

Victim Documentation [24 CFR 5.2007]

HACC Policy

If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking, HACC will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-IX.D of this plan.

Perpetrator Documentation

HACC 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.

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]

Section 504 definition-the definition of “Individual with Handicaps” is not the definition used to determine program eligibility. For program eligibility, use the definition of “Person with Disabilities” as defined earlier in this section.

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.

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 preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation 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—

(I)(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

- (ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.
 - (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 assistance under the HCV program, the family must submit an application that provides HACC with the information needed to determine the family's eligibility. HUD requires HACC to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, HACC must select families from the waiting list in accordance with HUD requirements and HACC policies as stated in the administrative plan and the annual plan.

HACC is required to adopt clear policies and procedures for accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow these policies and procedures 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 HACC that justify their selection. Examples of this are the selection of families for income targeting and the selection of families that qualify for targeted funding.

HUD regulations require that all families have an equal opportunity to apply for and receive housing assistance, and that HACC 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 HACC will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

This chapter describes HUD and HACC 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 HACC will handle the applications it receives.

Part II: Managing the Waiting List. This part presents the policies that govern how the HACC'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 HACC will use to keep the waiting list current.

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

PART I: THE APPLICATION PROCESS

4-I.A. OVERVIEW

This part describes HACC policies for making applications available, accepting applications making preliminary determinations of eligibility, and the placement of families. This part also describes HACC'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 HACC to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by HACC. The PHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of the PHA's application.

HACC Policy

HACC will use a two-step application process. HACC 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.

When the waiting list is open, applications will be available on the HACC website electronically and staff assistance will be provided upon request at HACC's Administrative Offices.

For a preference to be applied, a verification of homelessness, disability or veteran status must be provided when the family is selected from the Coordinated Housing Access (CHA).

Applications must be complete in order to be accepted. For reasonable accommodation, HACC will provide staff assistance with the online process upon written request by applicants up until the wait list closing date. Applications received after the closing date will not be accepted. HACC will provide onsite assistance at its Administrative Offices for applicants needing assistance completing the online application during normal office hours.

4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS

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

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

application process. Chapter 2 provides a full discussion of HACC's policies related to providing reasonable accommodations for people with disabilities.

Limited English Proficiency

HACC is required to take reasonable steps to ensure equal access to their programs and activities by persons with limited English proficiency [24 CFR 1]. Chapter 2 provides a full discussion on HACC's policies related to ensuring access to people with limited English proficiency (LEP).

4-I.D. PLACEMENT ON THE WAITING LIST

HACC must review each complete application received and make a preliminary assessment of the family's eligibility. HACC 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 or over income) for the grounds stated in the regulations [24 CFR 982.206(b)(2)]. Where the family is determined to be ineligible, HACC 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)].

HACC Policy

HACC may require a preliminary assessment of homeless, disability and veteran status for preference applications. All other regular applications, HACC will not conduct a preliminary assessment of the family's eligibility at the time of initial application. 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.

PART II: MANAGING THE WAITING LIST

4-II.A. OVERVIEW

HACC 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 HACC may structure its waiting list and how families must be treated if they apply for assistance from HACC that administers more than one assisted housing program.

4-II.B. ORGANIZATION OF THE WAITING LIST [24 CFR 982.204 and 205]

HACC's HCV waiting list must be organized in such a manner to allow HACC 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 HACC to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. HACC is permitted, but not required, to maintain a separate waiting list for each county or municipality served.

HACC Policy

HACC will maintain one waiting list for the tenant based HCV program. Preferences will be well documented. Mainstream (MS), SPC, FYI, EHV and RLRA wait lists are homeless preference served vouchers that are maintained through Coordinated Housing access (CHA) system managed by the Continuum of Care (CoC). Clients are pulled off the CHA and, when applicable, matched with case management services before being referred to HACC.

HACC will maintain one PBV wait list with current tenant based wait list applicants given opportunity to apply and will utilize the CHA as the wait list thereafter to prioritize placement of homeless individuals into these units. The exception would be for VASH who are directly referred from the VA. Descriptions of any population served at each property will dictate order of who is referred from the CHA. Per regulations, initial lease up at any PBV property will require that all tenant based HCV wait list applicants be given first opportunity to apply.

The Portland Veteran's Administration will maintain the wait list for VASH.

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 HACC 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 HACC 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.

HACC Policy

HACC will not merge the HCV Voucher waiting list with the waiting list for any other program HACC operates.

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

Closing the Waiting List

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

HACC Policy

HACC will close the HCV waiting list when the estimated waiting period for housing assistance for applicants on the list exceeds 24 months.

For special programs such as MS, SPC, FYI, EHV and RLRA that use the CHA as their wait list, the CHA guidelines as determined by the Continuum of Care (CoC) will be used.

Reopening the Waiting List

If the waiting list has been closed, it cannot be reopened until HACC 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.

HACC Policy

HACC will announce the reopening of the HCV waiting list at least 10 business days prior to the date applications will first be accepted.

HACC will give public notice by publishing the relevant information in suitable culturally diverse media outlets that may include, but not limited to:

El Hispanic News
The Skanner
The Portland Observer
The Portland Tribune
The Oregonian Citizen News
The Sandy Post
The Asian Reporter Clackamas Review
Lake Oswego Review
Oregon City News
Independent Living Resources Newsletter
Canby Herald
The HACC Website

Additionally, HACC will make individual agency notifications including, but not limited to local nonprofits and government agencies with a social service focus.

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

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

Because HUD requires HACC to admit a specified percentage of extremely low-income families to the program (see Chapter 4, Part III), HACC 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].

HACC 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.

HACC 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.

HACC Policy

HACC will monitor the characteristics of the population being served and the characteristics of the population as a whole in HACC's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES

HACC Policy

While the family is on the waiting list, the family must immediately inform HACC of changes in contact information, including current residence, mailing address, and phone number. The **changes must be submitted in writing** to the Administrative Offices: PO Box 1510, Oregon City, OR 97045-0510 (13930 S. Gain Street, Oregon City, OR 97045) or fax 503-655-8676 or emailed to: HACC@co.clackamas.or.us.

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

HUD requires HACC 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 a family's request for, and subsequent approval or denial of, a

reasonable accommodation (See Chapter 2 of this policy. If the applicant did not respond to a PHA request for information or updates, and the PHA determines that the family did not respond because of the family member's disability, HACC must reinstate the applicant family to their former position on the waiting list [24 CFR 982.204(c) (2)].

HACC Policy

The waiting list will be updated as needed to ensure all applicants and applicant information is current and timely.

To update the tenant based HCV waiting list, the PHA 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 PHA has on record for the family. The update request will provide a deadline by which the family must respond online through Rent Cafe 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 through Yardi's Rent Café portal. Applicants may seek assistance with the online process at HACC's Administrative Offices.

If the family fails to respond within 15 business days, 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 have 15 business days to respond from the date the letter was re-sent.

If a family is removed from the waiting list for failure to respond, the PHA may reinstate the family if it is determined that the lack of response was due to PHA error, or to circumstances beyond the family's control, as a result of a family member's disability, or as a direct result of status as a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, including an adverse factor resulting from such abuse.

HACC Policy

If at any time an applicant family is on the waiting list and HACC 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 HACC has determined the family is not eligible for assistance, a notice will be sent to the family's address of record **as well as to any alternate address provided on the initial application**. 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 HACC'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 are selected from the waiting list depends on the selection method chosen by HACC and is impacted in part by any selection preferences for which the family qualifies. The availability of targeted funding also may affect the order in which families are selected from the waiting list.

HACC must maintain a clear record of all information required to verify that the family is selected from the waiting list according to HACC'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 projects). In these cases, HACC may admit such families whether or not they are on the waiting list, and, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. HACC must maintain records showing that such families were admitted with special program funding.

Targeted Funding [24 CFR 982.204(e)]

HUD may award a PHA funding for a specified category of families on the waiting list. HACC must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the PHA may skip families that do not qualify within the targeted funding 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.

HACC Policy

HACC administers the following types of targeted funding:

- Mainstream Voucher (MS) dedicated to non-elderly (must be over 18 or under 62 years of age) and disabled families with a preference to serve those that are homeless or risk of homelessness or exiting institutional care.
- Shelter Plus Care (SPC) grant funding which requires a client be homeless and disabled at time of application; and
- Veteran Administration Supportive Housing (VASH) vouchers for qualified veterans as determined by the U.S. Department of Veterans Affairs.
- As awarded, HACC will administer Family Unification Program (FUP) vouchers or Foster Youth to Independence (FYI) vouchers. The FUP and FYI both serve youth that the Public Child Welfare Agency (DHS) has certified to be at least 18 years old, and not more than 24 years of age, and who has left foster care, or will

leave foster care within 90 days, in accordance with a transition plan described in section 475(5) (H) of the Social Security Act, and is homeless or is at risk of becoming homeless at age 16 or older. HACC defines foster care or left foster care to include any youth that was taken into custody for safety reasons for any period of time and does not require permanent placement in foster care.

- The FUP can also serve a family that DHS has certified as a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in/out-of-home care, or in the delay of discharge of a child, or children, to the family from out-of-home care, and that HACC has determined is eligible for a HCV.
- Regional Long-Term Rental Assistance (RLRA) is State funding to serve extremely low- and low-income households experiencing homelessness or at risk of homelessness as identified by the CHA through the Continuum of Care. It is operated under its own set of Metro agreed RLRA policies and procedures. Where the RLRA policies and procedures are silent, they will follow the HCV Administrative Plan. Emergency Housing Voucher (EHV) serves homeless category 1-4 households.

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 HACC 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 HACC to establish other local preferences, at its discretion. Any local preferences established must be consistent with HACC's plan and the consolidated plan and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

HACC Policy

Households applying from outside of Clackamas County must live in Clackamas County one (1) year with the voucher before being allowed to transfer (port out).

Vouchers will only be issued to those who have not left any type of subsidized housing in bad standing in the last 5 years, do not owe money to any PHA or have any EIV program violations that would otherwise exclude them from the program. No Sex Offenders will be allowed to participate in the program.

Preferences 1-5 will be served before any other preferences. Preference households will be served based on date and time of application. HACC preferences are as follows:

1. Any family that has had their voucher rescinded due to insufficient program funding will always be served before all other preference or wait list families.
2. Project Based Voucher families that qualify for a reasonable accommodation or VAWA transfer and have lived in their unit no less than one year **and** have requested a Tenant Based Voucher **before giving notice to vacate** will be issued a voucher before all other preference families can be served.
3. Eligible families displaced from Housing Authority owned units due to acquisition or sale of property, demolition, disposition, or rehabilitation work. This preference may include residents of HACC owned local projects that have to be relocated due to a change in the population to be served at the units, rehabilitation, or sell of units. These families will be allowed to move with debts owed as long as they sign a payment agreement and are current on all payments. These families will only be issued a voucher according to the HCV Occupancy Standard of 2 per room and not based on the unit size they currently occupy.
4. Families currently in the Public Housing program who have met the requirements for an emergency or VAWA transfer but whose needs cannot be met within the Public Housing program through relocation.
5. HACC Public Housing Families who are under housed, over housed or in need of reasonable accommodation that Public Housing cannot accommodate through relocation.
6. Definition of Work-focused Household: Work-focused household is a household in which neither the head, spouse, nor cohead is a senior or a person with disabilities. All households that do not meet the definition of a senior and people with disabilities household are considered work-focused households. Work-focused households will be given preference when over 75% of households served are at or below 30% AMI.
7. Households residing in Clackamas County The term “residence” includes shelters and other dwelling places where homeless families may be living or sleeping. Applicants who are working or have been notified that they were hired to work in Clackamas County will be treated as residents of Clackamas County. Graduates of, or active participants in, education and training programs in Clackamas County will be treated as residents of Clackamas County if the education or training program is designed to prepare individuals for the job market. The PHA 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". Employment, education, or training programs would include active participation in any of the following: GED or high school diploma, employment readiness programs, short term or long-term training programs that will result in a certification; or a degree-seeking program at a college or university with a minimum enrollment requirement of six credit hours. The previous list is not inclusive of all eligible employment, education, or training programs. Third-party verification of active participation or graduation from such program within the past year will be required to receive a preference.

8. Shelter Plus Care families may graduate to a regular voucher if the grant changes making them no longer qualify for assistance under the revised grant or if services are no longer needed and family is fully stabilized as shown by having passed inspections consistently, no eviction threats, and have some income (cannot be zero income).
9. For Mainstream Vouchers only, preference will be given to non-elderly persons with disabilities transitioning out of institutional and other segregated settings, at serious risk of institutionalization, homeless or at risk of becoming homeless who are referred through the CHA and provided supportive services. Preference status must be met at time of application.
10. Eligible Clackamas County families who have been displaced from their homes by a natural disaster as declared by the Federal, State or County government who have not been eligible for long term assistance including but not limited to federal assistance such as Federal Emergency Management Agency (FEMA), State or local government assistance, insurance settlements, or the like, and who face long term homelessness. Those families seeking any compensation or settlement that may come in the future may not apply until all legal recourse has been resolved. Families receiving temporary assistance such as motel vouchers may apply if no other legal negotiation for compensation is under consideration. This preference is limited to 10 Families that can be confirmed by Clackamas County EOC to meet the requirements set forth above during a fiscal year (July 1st to June 30th). If at the time more families meet this preference than there are slots available, families will be selected within the preference category based on the date and time of their application to the Housing Authority for housing assistance. Unused Disaster Vouchers do not carry over to the next fiscal year.

11. FYI households that are disabled and unable to fully afford rent at time of voucher sunset will be offered a preference voucher referral due to risk of returning to homelessness.
12. RLRA households that as a reasonable accommodation need to live outside the Metro region will be offered a preference voucher referral that meets their needs. Any voucher type that meets their need will be considered. Given RLRA client met homeless status at intake all types of vouchers can be considered (Mainstream, EHV, FYI, VASH, or regular voucher).
13. Disabled homeless or at risk of homeless families that are extremely low income will be given preference for the following special purpose vouchers: MS, SPC, FYI, EHV and RLRA.

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

HUD requires that extremely low-income (ELI) families make up at least 75 percent of the families admitted to the HCV program during HACC's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30 percent of the area median income, whichever is higher. To ensure this requirement is met, a PHA 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)].

HACC Policy

HACC will monitor progress in meeting the income targeting 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. The periods of income targeting shall coincide with the HACC's fiscal year (July 1st through June 30th). HACC will track the percentage of initial lease-up at or below 30% of the area median income. If the cumulative fiscal year percentage falls below 75%, HACC may offer vouchers only to applicants whose income is at or below 30% if necessary to meet federally mandated goals. If the household income of an applicant who receives a voucher during this period exceeds the 30% income limit at any time during the lease-up phase, the applicant will lose their voucher. The family's application will be returned to their original place on the waiting list.

Since HUD-VASH is excluded from the 75% requirement, HACC will only use those families that meet this requirement when calculating its cumulative percentage.

Order of Selection

HACC's system of preferences may select families based on local preferences according to the date and time of application or by a random selection process (lottery) [24 CFR 982.207(c)]. If

HACC does not have enough funding to assist the family at the top of the waiting list, it is 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)].

HACC 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 HACC's hierarchy of preferences. Within each targeted funding or preference category, families will be selected on a first-come, first-served basis according to the date and time their complete application is received by HACC. Documentation will be maintained by HACC 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 HACC 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, HACC must notify the family [24 CFR 982.554(a)].

HACC Policy

The PHA will notify the family by first class mail when it is selected from the waiting list. The notice will include the required forms that have to be completed and signed by all adult family members and returned to the PHA. The notice will inform the family of the following:

Documents and information that must be provided to the PHA, including information about what constitutes acceptable documentation; and

Deadline for submitting completed and signed forms and other documents and information requested by the PHA.

If a notification letter is returned to the PHA with no forwarding address, the family will be removed from all PHA waiting lists. If the family fails to respond to a notification letter, the family will be removed from the waiting list for failure to supply information needed to determine eligibility. A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address.

4-III.E. THE APPLICATION INTERVIEW

HUD recommends that HACC obtain the information and documentation needed to make an eligibility determination through a face-to-face interview with a HACC representative [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 PHA 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 PHA [Notice PIH 2018-24].

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

HACC Policy

The PHA does not require in-person eligibility interviews.

If any materials are missing, the PHA will provide the family with a written list of items that must be submitted. The missing and/or additional items must be provided within 10 business days from the date the PHA sent the list of items to the family (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 one 10-day extension and any additional requests for extensions will only be granted in cases of reasonable accommodation. 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 process.

4-III.F. COMPLETING THE APPLICATION PROCESS

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

HACC Policy

If HACC determines that the family is ineligible, HACC 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, preference status), the family will be returned to its original position on the waiting list. HACC will notify the family orally that it has been returned to the waiting list and will specify the reasons for it.

If HACC determines that the family is eligible to receive assistance, HACC 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 HCV program, HACC 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 the HUD-required documents and other family needs to know in order to lease a unit under the program. Once the family is fully informed of the program's requirements, HACC issues the family a voucher. The voucher includes the unit size for which the family qualifies based on HACC's subsidy standards, as well as the issue and expiration date of the voucher. The voucher is the document that authorizes 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 HACC 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 HACC'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 HACC to conduct mandatory briefings for applicant families who qualify for a voucher. The briefing provides a broad description of owner and family responsibilities, explains HACC's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program.

5-I.B. BRIEFING [24 CFR 982.301]

Notification of Briefing

Prior to issuance of a voucher, the PHA 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 in individual face-to-face meetings, through group briefing sessions, or via remote briefing sessions.

HACC Policy

Families will be notified of their eligibility for assistance at the time they are invited to a briefing (aka Orientation). The notice will be sent by first class mail and may also be sent by email if the family has provided a valid email address to HACC.

The notice will advise the family of the type of briefing, who is required to be present at the briefing, and the date and time of the briefing. The notice will also inform the family of any additional requirements for in-person or remote briefings as addressed in relevant policy elsewhere in this section.

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 resent to the address indicated.

Briefings will be conducted in group meetings or may be done remotely through a combination of an on-line training with materials and information shared through mailings and email.

Generally, the head of household is required to complete a briefing or orientation. If the head of household is unable to attend, HACC may approve another adult family member to complete the class.

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

Participants requesting to move to another unit are required to complete a briefing or orientation before being issued a new voucher. HACC will use its discretion when determining if a participant may be exempted from this requirement. Participants moving into Clackamas County under portability rules will be given a briefing packet and may be given a one-on-one briefing, attend a group briefing or complete an on-line briefing.

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

In-Person Briefings

At the briefing, the PHA 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.

HACC Policy

In-person briefings will generally be conducted in group meetings. At the family's written request, the PHA may provide an individual briefing.

Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, the PHA 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 PHA staff person.

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

Attendance

HACC Policy

Applicants who fail to attend a scheduled in-person briefing will be scheduled for another briefing automatically. The PHA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without prior PHA approval, will be denied assistance (see Chapter 3).

Remote Briefings [Notice PIH 2020-32]

Remote briefings may be conducted over the phone, via video conferencing, or through other virtual platforms.

HACC Policy

Remote may include information being conveyed in written materials by mail, email and fax and is not limited to an oral representation.

The PHA has the sole discretion to require that briefings be conducted remotely in case of local, state, or national physical distancing orders, or if business and leasing needs exceed staffing capacity to conduct individual one on one appointments or in cases of inclement weather or natural disaster. If the PHA schedules a remote briefing, the PHA will conduct a face-to-face briefing upon request of the applicant as a reasonable accommodation for a person with a disability if safety and health concerns can be reasonably addressed.

In addition, the PHA will conduct a briefing remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the briefing, or if the applicant believes an in-person briefing would create an undue health risk. The PHA will consider other reasonable requests for a remote briefing on a case-by-case basis.

Accessibility Requirements for Persons with Disabilities and LEP Individuals

As with in-person briefings, the platform for conducting remote briefings must be accessible and the briefing conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual.

If no method of conducting a remote briefing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual his or her inability to

participate in the remote briefing, and the PHA should consider whether postponing the remote briefing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances.

Limited English Proficiency (LEP) requirements also apply to remote briefings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote briefings.

Conducting Remote Briefings

The PHA must ensure that the lack of technology or inability to use technology for remote briefings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA must ensure that the family has appropriate technological access in order to fully participate in the remote briefing.

HACC Policy

At least 10 business days prior to scheduling the remote briefing, the PHA will provide written notification via first class mail and/or email to families participating in the briefing to advise of technological requirements and to request the family notify the PHA of any known barriers. If any family does not respond within five business days, or if the written notification is returned by the post office or the email is rejected, the PHA will contact the family by telephone to identify potential technological barriers and to determine which technology resources are accessible to the family. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person briefing or have a one-on-one briefing over the phone, as appropriate.

The PHA will conduct remote briefings via a video conferencing platform when available. If applicants are unable to adequately access the video conferencing platform, the briefing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in, the remote briefing will be postponed, and an in-person alternative or one-on-one briefing over the phone will be provided.

The PHA will provide login information and/or conferencing call-in information and an electronic copy of the briefing packet via email at least five business days before the briefing. The PHA will provide a paper copy of the briefing packet upon family request and may reschedule the briefing to allow adequate time for the family to receive the physical briefing packet.

The PHA will ensure that all electronic information stored or transmitted as part of the briefing meets the requirements for accessibility for persons with disabilities and persons with LEP, and is secure, including ensuring personally identifiable information (PII) is protected.

The PHA will ensure that families who participate in remote briefings have the opportunity to ask questions as part of the briefing.

If families lose connectivity during any remote briefing or otherwise feel they were unable to access information presented during the briefing, the family may request a one-on-one briefing over the phone or in person with the PHA.

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 HACC's jurisdiction;
- An explanation of how portability works. HACC may not discourage the family from choosing to live anywhere in HACC's jurisdiction or outside HACC's jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;
- HACC must inform the family of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance;
- 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.

HACC Policy

When HACC-owned units are available for lease, HACC 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 HACC-owned unit.

Briefing Packet [24 CFR 982.301(b)]

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

HACC Policy

To eliminate waste and copying costs, all the required briefing packet items will be made available and discussed during group briefings and on-line. It is the client's choice which items they will choose to take home or get on-line. However, a packet containing the following basic materials will be given directly to each client to take home: Voucher, Request for Tenancy Approval, Tenant Rent and Subsidy Worksheet, Utility Allowance Chart, Determination of Housing Assistance Payments, and Payment Standard chart.

- The term of the voucher, and HACC's policies on any extensions or suspensions of the term. If HACC 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 HACC determines the payment standard for a family, how HACC determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.

- An explanation of how HACC determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance.
- 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 HACC policy on providing information about families to prospective owners.
- HACC subsidy standards including when and how exceptions are made.
- Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides.
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form. HACC provides the toll-free number for the Fair Housing complaint Hotline: 1-800-669-9777 and TTY 1-800-887-8339 through the use of the HUD forms 1686 and 903.1.
- A list of landlords known to HACC who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) known to the PHA that may assist the family in locating a unit. HACC must ensure that the list of landlords or other resources covers areas outside 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 HACC.
- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which HACC may terminate assistance for a participant family because of family action or failure to act.
- HACC informal hearing procedures include when HACC is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- An explanation of the advantages of moving to an area that does not have a high concentration of low-income families.

If HACC is located in a metropolitan 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 HAs 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 2017-12].

HACC Policy

HACC will make available the following additional materials at briefing:

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

Information on how to fill out and file a housing discrimination complaint form

The form HUD-5382 notice of occupancy rights, which contains information on VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking

“Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse

Information about the protections afforded by the Protecting Tenants at Foreclosure Act (PTFA) (see section 13-II.G)

“What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12.

HACC Schedule of utility allowances.

Landlord inspection checklist.

Family Self Sufficiency Information Sheet

5-I.C. FAMILY OBLIGATIONS

The 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. HACC 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

HACC Policy

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

When a family is required to provide notice to HACC, the notice must be in writing.

Family Obligations [24 CFR 982.551]

The family obligations of the voucher are listed as follow:

- The family must supply any information that HACC 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 HACC 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.

HACC Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow HACC 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.

HACC Policy

HACC 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, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

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 are whether the reason for the eviction was through no fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be construed as serious or repeated lease violations by the victim [see 24 CFR 5.2005(c)(1)].

- The family must notify HACC and the owner before moving out of the unit or terminating the lease.

HACC Policy

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

- The family must promptly give HACC 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 HACC. The family must promptly notify HACC 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.

HACC Policy

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

- The family must promptly notify HACC in writing if any family member no longer lives in the unit.
- If HACC has given approval, a foster child or a live-in aide may reside in the unit. HACC has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when HACC 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.

HACC 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 HACC to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify HACC when the family is absent from the unit.

HACC 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 21 calendar days. Written notice must be provided to HACC 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 HACC policies related to drug-related and violent criminal activity.

HACC Policy

This applies to any member of the household, a guest or any other person on the property under the tenant's control. Other person under the tenant's control is defined as a person that, although not staying as a guest in the unit, is or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tent. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate (legal) commercial purposes is not under the tenant's control.

- 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 HACC policies related to alcohol abuse.

HACC Policy

This applies to any member of the household, a guest or any other person on the property under the tenant's control. Other person under the tenant's control is defined as a person that, although not staying as a guest in the unit, is or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tent. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate (legal) commercial purposes is not under the tenant's control.

- 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 HACC 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]

HACC Policy

If HACC allows a reasonable accommodation to rent from family, the family cannot reside in the unit and must provide proof of not living in the unit such as a legal lease or rental agreement at another unit, utility bills for another unit and/or Deed or Mortgage for another unit.

PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5-II.A. OVERVIEW

HACC 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. HACC must also establish policies related to the issuance of the voucher, to the voucher term, and to any extensions or suspensions of the voucher term.

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

For each family, HACC determines the appropriate number of bedrooms under HACC 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 HACC 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 HACC 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 HACC subsidy standards.

HACC Policy

HACC will assign one bedroom for each two persons within the household. The following exceptions will apply:

- Single person families will be allocated one bedroom unless living in a studio then will be allocated a 0-bedroom payment standard.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in demining the family unit size but documentation proving unification is anticipated is required. Absences in excess of 180 days trigger policy under Chapter 3(I)(L), Absences Due to Placement in Foster Care.
- 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 HACC to reside in the unit) must be counted in determining the bedroom size. A live-in aide is entitled to a separate bedroom but no other consideration of significant other to the live-in aide or children will be considered.
- A separate bedroom will be allocated for a single head of household with children. The two per bedroom will be required thereafter regardless of gender or age of the remaining household members.
- A couple with one child will be issued a two-bedroom voucher. The two per bedroom will be required thereafter regardless of gender or age of the remaining household members.

Minimum and Maximum Occupancy chart will be used:

HACC will allow 2 per bedroom plus 1 for maximum Occupancy. If a landlord is willing to allow a larger maximum occupancy of 2 per bedroom plus 2 then HACC will allow on a case-by-case basis. The PHA will reference the following chart in determining the appropriate voucher size for a family:

| Voucher Size | Persons in Household (Minimum – Maximum) |
|-----------------------------|---|
| SRO | 1 |
| Studio (400 Sq Ft or under) | 1 |
| Studio (401 Sq Ft or over) | 1-2 |
| 1 Bedroom | 1-3 |
| 2 Bedrooms | 2-5 |
| 3 Bedrooms | 4-7 |
| 4 Bedrooms | 6-9 |
| 5 Bedrooms | 8-11 |

5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

In determining family unit size for a particular family, the PHA may grant an exception to its established subsidy standards if the PHA 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)].

HACC Policy

HACC will strictly enforce two per bedroom to avoid an undue financial burden that would contribute to a short fall in subsidy to serve the entire population of voucher holders.

HACC 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 only if a "bedroom" specifically is required and other rooms cannot be used to meet the needs.

During a housing crisis and/or while there is insufficient funding to serve our fully allotted number of vouchers congressionally approved (ACC), HACC will not absorb the cost of allowing an additional bedroom if other non-disabled family members are able to share bedroom or other rooms for sleeping to give an extra bedroom for use by the disabled family member.

Additionally, HACC will not absorb the cost of allowing an additional bedroom if medical supplies or equipment can be stored in rooms other than a bedroom (living room, closet, corner of kitchen, etc.). HACC will not adjust voucher sizes other than to accommodate household members and will strictly enforce the Subsidy Standards. 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 or reasonable accommodation payment standard and must include appropriate documentation demonstrating the need. 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 need for accommodation is readily apparent or otherwise known. The family's continued need for an accommodation may be re-verified at interim, annual or triennial as deemed appropriate by HACC.

HACC will notify the family of its determination within 14 business days of receiving the family's 504 request and the 504 verification of disability related need. No request will be considered prior to receiving a 504 verification of disability related need for an accommodation. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

5-II.D. VOUCHER ISSUANCE AND RESCISSIONS [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, HACC 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 HACC has determined the family to be eligible for the program, and that HACC expects to have money available to subsidize the family if the family finds an approvable unit. However, HACC 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 HACC's housing choice voucher program [Voucher, form HUD-52646]

A voucher can be issued to an applicant family only after HACC has determined that the family is eligible for the program based on verification of 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].

HACC Policy

Vouchers will be issued to eligible applicants immediately following their briefing.

HACC 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, HACC must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10].

HACC Policy

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

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

Although vouchers are issued on the basis that HACC will have enough money to subsidize families that locate an approvable unit within the term of their voucher, it is possible for HACC to discover after vouchers have been issued that there is not enough funding to provide subsidy to all of the applicant families that are currently searching for a unit. If this occurs, the PHA may need to rescind vouchers.

HACC Policy

If, due to budgetary constraints, HACC must rescind vouchers that have already been issued to families, HACC will do so according to the instructions under each of the categories below. HACC will first rescind vouchers that fall under Category 1.

Vouchers in Category 2 will only be rescinded after all vouchers under Category 1 have been rescinded. Category 3 will only be rescinded after all vouchers under Category 1 and 2 have been rescinded.

Category 1: Vouchers for which a Request for Tenancy Approval (RTA) and proposed lease have not been submitted to HACC. Vouchers will be rescinded in order of the date and time they were issued, starting with the most recently issued vouchers.

Category 2: All Port Vouchers for which 52665 has not been received. Vouchers will be rescinded in order of the date and time were issued, starting with the most recently issued vouchers.

Category 3: Vouchers for whom there are no elderly or disabled family members.

Category 4: Vouchers for which an RTA and proposed lease have been submitted to HACC. Vouchers will be rescinded in order of the date and time the RTA was submitted to HACC, starting with the most recently submitted requests.

Families who have their voucher rescinded will be notified in writing and will be reinstated to their former position on the waiting list. When funding is again available, families will be selected from the waiting list in accordance with HACC selection policies described in Chapter 4. **5-II.E. VOUCHER TERM AND EXTENSIONS**

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)].

HACC Policy

The initial voucher term will be 120 calendar days for all programs.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless HACC grants an extension.

Requests for extensions must be received prior to expiration of voucher for consideration.

For families moving to HACC's jurisdiction under portability, HACC will honor extensions granted by the initial PHA only.

The voucher term will begin on the date signed by both HACC and tenant.

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

HACC 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 HACC can approve. Discretionary policies related to extension and expiration of search time must be described in HACC's administrative plan [24 CFR 982.54].

HACC may 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 this purpose.

The family must be notified in writing of HACC's decision to approve or deny an extension. HACC'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)].

HACC Policy

If HACC has inadequate funding or faces sequestration, no extensions will be granted.

Otherwise, the PHA will automatically approve an additional 30-day extension upon written request from the family. The request may be delivered in person, by e-mail, fax, or through a support agency on behalf of the family.

The PHA may approve additional extensions only in the following circumstances:

An additional 30-day extension is necessary as a reasonable accommodation for a person with disabilities

An additional 30-day extension is necessary due to reasons beyond the family's control, as determined by the PHA. The extenuating circumstances the PHA may consider in making its decision include, but are not limited to, the reasons listed below. 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 PHA.

Whether family size or other special circumstances make it difficult to find a suitable unit.

Additional reasons for extensions may apply for families approved for portability (see Chapter 10).

Any request for an additional extension must include the reason(s) an additional extension is necessary. The PHA may require the family to provide documentation to support the request or obtain verification from a qualified third party.

All requests for extensions to the voucher term must be made in writing and submitted to the PHA prior to the expiration date of the voucher (or extended term of the voucher). The PHA will decide whether to approve or deny an extension request within 15 business days of the date the request is received, and will immediately provide the family written notice of its decision.

For families moving to the PHA's jurisdiction under portability, the voucher expiration date will be 30 calendar days from the expiration date of the initial PHA's voucher. The PHA will not approve an extension beyond that date unless the initial PHA is willing to extend its voucher term and the billing submission deadline due to funding considerations and constraints and not being able to automatically afford absorbing a household.

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

The PHA must provide for suspension of the initial or any extended term of the voucher from the date the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied.

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, HACC 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].

HACC Policy

If an applicant family's voucher term or extension expires before HACC has approved a tenancy, HACC will require the family to reapply for assistance when the waiting list is open.

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 HACC's subsidy. HACC 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 HACC policies related to these topics in three parts as follows:

- Part I: Annual Income. HUD regulations specify the sources of income which are excluded from the family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.
- Part II: Assets. HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and PHA policies for calculating income from assets are found in Part II.
- Part III: 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 and allow the PHA to adopt additional permissive deductions. These requirements and PHA policies for calculating adjusted income are found in Part III.
- Part IV: Calculating Family Share and HACC Subsidy. This part describes the statutory formula for calculating total tenant payment (TTP), the use of utility allowances, and the methodology for determining HACC subsidy and required family payment.

PART I: ANNUAL INCOME

6-I.A. OVERVIEW [24 CFR 5.609]

- All amounts, not specifically excluded in 24 CFR 5.609(b);
- All amounts received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse;
- Unearned income by or on behalf of each dependent who is under 18 years of age; and
- Imputed returns of an asset based on the current passbook savings rate, as determined by HUD, when the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually) and the actual returns from a given asset cannot be calculated.

In addition to this general definition, the regulations at 24 CFR 5.609(b) provide a comprehensive listing of all sources of income that are excluded from annual income. Note, unlike in previous versions of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

Annual income includes “all amounts received,” not the amount that a family may be legally entitled to receive but did not receive. For example, a family’s child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations 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 Full Definition (Exhibit 6-1)
- Treatment of Family Assets (Exhibit 6-2)
- The Effect of Welfare Benefit Reduction (Exhibit 6-3)

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. Verification requirements for annual income are discussed in Chapter 7.

6-I.B. HOUSEHOLD COMPOSITION AND INCOME

Overview

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 income and composition in accordance with HUD regulations and PHA policies in Chapter 11. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

| Summary of Income Included and Excluded by Person | |
|--|---|
| Live-in aides | Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(c) (5)]. |
| Foster child or foster adult | Income from all sources (both earned and unearned) is excluded [24 CFR 5.609(c) (2)]. |
| Head, spouse, or co-head Other adult family members | All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(a)]. |
| Minors | Earned of children under 18 years of age income is excluded [24 CFR 5.609(b) ()]. All other sources of unearned income, except those specifically excluded by the regulations, are included [24 CFR 5.609(a)]. |
| Full-time students 18 years of age or older (not head, spouse, or co-head) | Earned income in excess of the dependent deduction is excluded [24 CFR 5.609(c) (11)]. All other sources of unearned income, except those specifically excluded by the regulations, are included. |

Temporarily Absent Family Members

The current regulations governing annual income do not specifically address temporarily absent family members. The regulations also do not define “temporarily” or “permanently” absent or specify a timeframe associated with a temporary versus a permanent absence.

HACC Policy

Unless specifically excluded by the regulations, the income of all family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

(As confirmed by the state child welfare agency.) 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

HACC 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 HACC 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 (as confirmed by the state child welfare agency) are considered members of the family [24 CFR 5.403].

HACC Policy

If a child has been placed in foster care, the participant must provide documentation from 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 continue to be counted as a family member.

Absent Head, Spouse, or Co-head

HACC 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].

HACC Policy

The participant must provide and will request verification from a responsible medical professional and HACC 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 cohead qualifies as an elderly person or a person with disabilities.

Joint Custody of Dependents

HACC 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 more than 50 percent 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, HACC will make the determination based on available documents such as court orders, school records, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

HACC Policy

The approval of a caretaker is at the owner and HACC's discretion and subject to the owner and PHA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, HACC 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 90 days have 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 HACC 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. CALCULATING ANNUAL INCOME

The methodology used for calculating income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination. However, income from assets is always anticipated regardless of certification type.

Anticipating Annual Income [24 CFR 5.609(c)(1)]

At initial occupancy and for an interim reexamination of family income, the PHA is required to use anticipated income (current income) for the upcoming 12-month period following the new admission or interim reexamination effective date. Policies related to verifying income are found in Chapter 7.

HACC Policy

When HACC cannot readily anticipate income based upon current circumstances (e.g., in the case of temporary, sporadic, or variable employment, seasonal employment, unstable working hours, or suspected fraud), HACC 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 HACC to show why the historic pattern does not represent the family's anticipated 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 PHA annualized projected income.

Known Changes in Income

If HACC verifies an upcoming increase or decrease in income, annual income will be projected 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 new admission or interim reexamination. In such a case HACC would calculate annual income as follows: $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks})$.

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 HACC will calculate annual income using current circumstances and then, should the change in income require the PHA to conduct an interim reexamination, conduct an interim reexamination in accordance with PHA policy in Chapter 11. **Calculating Annual Income at Annual Reexamination [24 CFR.609(c)(2); Notice PIH 2023-27]**

At annual reexamination, PHAs must first determine the family's income for the previous 12-month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with PHA policies in Chapter 11 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous 12-month period is the amount that will be used to determine the family's rental assistance. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 11.

6-I.D. EARNED INCOME

Wages and Related Compensation [24 CFR 5.609(a); Notice PIH 2023-27]

The earned income of each member of the family who is 18 years of age or older, or who is the head of household or spouse/cohead regardless of age, is included in annual income. Income received as a day laborer or seasonal worker is also included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

Earned income means income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare, social security, and governmental subsidies for certain benefits), or any cash or in-kind benefits [24 CFR 5.100].

A *day laborer* is defined as an individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future [24 CFR 5.603(b)].

A *seasonal worker* is defined as an individual who is hired into a short-term position (e.g., for which the customary employment period for the position is six months or fewer) and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27].

HACC Policy

The PHA will include in annual income the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation.

For persons who regularly receive bonuses or commissions, HACC will verify, and then average amounts received for the two years preceding admission or interim reexamination. If only a one-year history is available, HACC will use the prior year amounts. In either case the family may provide, and HACC 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, HACC will count only the amount estimated by the employer. The file will be documented appropriately.

Military Pay

All regular pay, special pay and allowances of a member of the Armed Forces are counted for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b) (11)].

Earnings of a Minor [24 CFR 5.609(b)(3)]

A minor is a member of the family, other than the head of household or spouse, who is under 18 years of age. Employment income earned by minors is not included in annual income. All other sources of unearned income, except those specifically excluded by the regulations, are included.

Earned Income of Full-Time Students [24 CFR 5.609(b)(14)]

The earned income of a dependent full-time student in excess of the amount of the dependent deduction is excluded from annual income. All sources of unearned income, except those specifically excluded by the regulations, are included.

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)].

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].

6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES [24 CFR 5.617; Streamlining Final Rule (SFR) Federal Register 3/8/16]; Notice PIH 2023-27]

HOTMA removed the statutory authority for the EID. The EID is available only to families that are eligible for and participating in the program as of December 31, 2023, or before; no new families may be added on or after January 1, 2024. If a family is receiving the EID prior to or on the effective date of December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. The policies below are applicable only to such families. No family will still be receiving the EID after December 31, 2025. The EID will sunset on January 1, 2026, and the PHA policies below will no longer be applicable as of that date or when the last qualifying family exhausts their exclusion period, whichever is sooner.

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 “baseline income.” The family member’s baseline income is his or her income immediately prior to qualifying for the EID. The family member’s baseline income remains constant throughout the period that he or she is participating in the EID.

Calculation Method

Initial 12-Month Exclusion

During the initial exclusion period of 12 consecutive months, the full amount (100 percent) of any increase in income attributable to new employment or increased earnings is excluded.

HACC 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

During the second exclusion period of 12 consecutive months, the PHA must exclude at least 50 percent of any increase in income attributable to employment or increased earnings.

HACC Policy

During the second 12-month exclusion period, the PHA will exclude 100 percent of any increase in income attributable to new employment or increased earnings.

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. During the 24-month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

6-I.F. BUSINESS AND SELF-EMPLOYMENT INCOME [24 CFR 5.609(b) (28)]; Notice PIH 2023-27]

Annual income includes “net income from the operation of a business or profession. *Net income* is gross income minus business expenses that allows the business to operate. *Gross income* is all income amounts received into the business, prior to the deduction of business expenses.

Expenditures for business expansion or amortization of capital indebtedness may 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”.

HACC Policy

To determine business expenses that may be deducted from gross income, the PHA 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 herein.

Independent Contractors

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 5.609 (b)(24)].

An independent contractor is defined as an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code Federal income tax requirements and whose earnings are consequently subject to the Self-Employment Tax. In general, an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done [24 CFR 5.603(b)].

Business Expansion

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

HACC Policy

Business expansion is defined as any capital expenditure 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 HACC to deduct from gross income the amortization of capital indebtedness.

HACC Policy

Capital indebtedness is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means HACC 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 the 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 HACC 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.

HACC 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, HACC 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-owned Businesses

HACC 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.

Assets Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one-third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset

owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

6-I.G. STUDENT FINANCIAL ASSISTANCE [FR Notice 2/14/23 and Notice PIH 2023-27]

Introduction

Section 479B of the HEA requires that all assistance under Title IV of the HEA and Bureau of Indian Affairs student financial assistance, even assistance provided to students in excess of tuition and required fees or charges, be excluded from HUD income calculations.

For Section 8 programs only, however, for over 10 years through FY 2022, HUD appropriations have included a provision that for certain students receiving Section 8 assistance, any amounts received in excess of tuition and any other required fees and charges are considered income (with the exception of students who lived with their parents or who were over the age of 23 with a dependent child).

While the language in various consolidated appropriations acts is limited to federal fiscal year covered by the act, this does not rule out the possibility that similar language will be included in future years' appropriations bills.

- For any funds from a year where HUD's appropriations acts include this limitation, it will apply with respect to Section 8 participants. The PHA will follow the pre-HOTMA Section 8 student financial assistance limitation described below.
- During years in which an appropriations act does not contain this Section 8 student financial assistance limitation (or any other such limitation), then the determination of student financial assistance as included/excluded income for all Section 8 students defaults to the methodology described for the public housing program and listed below.

Pre-HOTMA Section 8 Student Financial Assistance Limitation [FR 4/10/06; Notice PIH 2015-21]

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.

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 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 and any other required fees and charges 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 PHA will use the definitions of *dependent child*, *institution of higher education*, and *parents* in Chapter 3, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

- *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.
- *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 and fees* are defined in the same manner in which the Department of Education defines *tuition and fees* [Notice PIH 2015-21].
 - This is the amount of tuition and required fees covering a full academic year most frequently charged to students.
 - The amount represents what a typical student would be charged and may not be the same for all students at an institution.
 - If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition.
 - Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program).
 - Expenses related to attending an institution of higher education must **not** be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed-sum charges.

Any student financial assistance not subject to inclusion under the regulations is fully excluded from annual income, 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.

HOTMA Student Financial Assistance Requirements [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students.

Types of Assistance

Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)].

Examples of assistance under title IV of the HEA include:

- Federal Pell Grants;
- Teach Grants;
- Federal Work Study Programs;
- Federal Perkins Loans;
- Income earned in employment and training programs under section 134 of the Workforce Innovation and Opportunity Act (WIOA); or
- Bureau of Indian Affairs/Education student assistance programs
 - The Higher Education Tribal Grant
 - The Tribally Controlled Colleges or Universities Grant Program

Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the Federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)]. *Actual covered costs* are defined as the actual costs of:

- Tuition, books, and supplies;
 - Including supplies and equipment to support students with learning disabilities or other disabilities
- Room and board; and
- Other fees required and charged to a student by the education institution.

For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

Further, to qualify, other student financial assistance must be expressly:

- For tuition, book, supplies, room and board, or other fees required and charged to the student by the educational institution;
- To assist a student with the costs of higher education; or
- To assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.

The student financial assistance may be paid directly to the student or to the educational institution on the student's behalf. However, any student financial assistance paid to the student must be verified by the PHA.

The financial assistance must be a grant or scholarship received from:

- The Federal government;
- A state, tribal, or local government;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education.

Student financial assistance, does not include:

- Financial support provided to the student in the form of a fee for services performed; (e.g., a work study or teaching fellowship that is not excluded under section 479B of the Higher Education Act HEA);
- Gifts, including gifts from family or friends; or
- Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under the HEA, exceeds the actual covered costs of the student.

Calculating Income from Student Financial Assistance [HOTMA Student Financial Assistance Resource Sheet; Notice PIH 2023-27]

The formula for calculating the amount of other student financial assistance that is excluded from income always begins with deducting the assistance received under 479B of the HEA from the total actual covered costs, because the 479B assistance is intended to pay the student's actual covered costs. When a student receives assistance from both Title IV of the HEA and from other sources, the assistance received under Title IV of the HEA must be applied to the student's actual covered costs first and then other student financial assistance is applied to any remaining

actual covered costs. Once actual costs are covered, any remaining student financial assistance is considered income.

HACC Policy

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the PHA will exclude the full amount of the assistance received under Title IV from the family's annual income. The PHA will not calculate actual covered costs in this case.

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The PHA will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The PHA will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

Example 1

- Actual covered costs: \$20,000
- Other student financial assistance: \$25,000
- Excluded income: \$20,000 (\$25,000 in financial assistance - \$20,000 in actual covered costs)
- Included income: \$5,000

When a student receives assistance from both Title IV of the HEA and from other sources, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs.

If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none of the assistance included under other student financial assistance" would be excluded from income.

Example 2

- Actual covered costs: \$25,000
- Title IV HEA assistance: \$26,000
- Title IV HEA assistance covers the students entire actual covered costs.
- Other Student Financial Assistance: \$5,000
- Excluded income: The entire Title IV HEA assistance of \$26,000
- Included income: All other financial assistance of \$5,000

If the amount of assistance excluded under Title IV of the HEA is less than the actual covered costs, the PHA will exclude the amount of other student financial assistance up to the amount of the remaining actual covered costs.

Example 3

- Actual covered costs: \$22,000
- Title IV HEA assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$7,000 (\$22,000 in actual covered costs - \$15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: \$5,000
- \$7,000 in remaining actual covered costs - \$5,000 in other financial assistance
- Excluded income: \$15,000 entire amount of the Title IV HEA Assistance + \$5,000 in other financial assistance
- Included income: \$0

Example 4

- Actual covered costs: \$18,000
- Title IV HEA Assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$3,000 (\$18,000 in actual covered costs - \$15,000 in Title IV HEA Assistance)
- Other student Financial Assistance: \$5,000
- When other student financial assistance is applied, financial assistance exceeds actual covered costs by \$2,000 (\$3,000 in actual covered costs - \$5,000 in other financial assistance).
- Included income: \$2,000 (the amount by which the financial aid exceeds the student's actual covered costs).

6-I.H. PERIODIC PAYMENTS

Periodic payments are forms of income received on a regular basis. HUD regulations specify periodic payments that are not included in annual income. Regulations do not specify which types of periodic payments are included in annual income.

Income that has a discrete end date and will not be repeated beyond the coming year is excluded from a family's annual income because it is nonrecurring income. However, this does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended. For example, a family receives income from a guaranteed income program in their city that has a discrete beginning and end date. While the guaranteed income will be repeated in the coming year, it will end before the family's next annual reexamination. This income is fully excluded from annual income.

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income. Payments received in lieu of wages for worker's compensation are excluded, even if paid in periodic payments, if the income will last for a period of less than one year.

HACC Policy

HACC will include in annual income 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.

Payments in lieu of earnings, such as unemployment and disability compensation, and severance pay are also counted as income if they are received in the form of periodic payments.

Lump-Sum Payments for the Delayed Start of a Periodic Payment [24 CFR 5.609(b)(16)]

Deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum amount or in prospective monthly amounts are excluded from annual income.

HACC Policy

HACC will include in annual income lump sums received as a result of delays in processing periodic payments (other than those specifically excluded by the regulation), such as unemployment or welfare assistance.

If the delayed-start payment is received outside of the time the PHA is processing an annual reexamination, then the PHA will consider whether the amount meets the threshold to conduct an interim reexamination. If so, the PHA will conduct an interim in accordance with PHA policies in Chapter 11. If not, the PHA will consider the amount when processing the family's next annual recertification.

Retirement Accounts [24 CFR 5.609(b)(26); Notice PIH 2023-27]

Income received from any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals is not considered actual income from assets.

However, any distribution of periodic payments from such accounts is included in annual income at the time they are received by the family.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value.

Social Security Benefits [Notice PIH 2018-24]

The PHA is required to use the gross benefit amount to calculate annual income from Social Security benefits.

Annually in October, the Social Security Administration (SSA) announces the cost-of-living adjustment (COLA) by which federal Social Security and SSI benefits are adjusted to reflect the increase, if any, in the cost of living. The federal COLA does not apply to state-paid disability benefits. Effective the day after the SSA has announced the COLA, PHAs are required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year [Notice PIH 2023-27].

HACC Policy

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. When the (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. HACC will use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount. Further, if a family's social security income is garnished for any reason, the PHA will use the net amount after the garnishment in order to calculate the family's income.

Alimony and Child Support

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child-support or

alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders [Notice PIH 2023-27].

HACC Policy

The PHA will count all regular payments of alimony or child support awarded as part of a divorce or separation agreement.

The PHA will count court-awarded amounts for alimony and child support unless the family certifies and the PHA verifies that the payments are not being made.

In order to verify that payments are not being made, the PHA will review child support payments over the last three months.

If payments are being made regularly, the PHA will use the amount received during the last 12 months (excluding any lump sums received). If payments have been made for a period less than 12 months, the PHA will average all payments that have been made.

At new admission or interim recertification, if any lump sum payments were made in the past 12 months, the PHA will determine the likelihood of the family receiving another similar payment within the next 12 months before deciding whether or not this amount will be included in the calculation of annual income.

If the PHA determines and can appropriately verify that the family in all likelihood will not receive a similar payment, then the amount will not be considered when projecting annual income.

If the PHA determines that it is likely that the family will receive a similar payment and can appropriately verify it, the amount will be included when projecting annual income.

If no payments have been made in the past three months and there are no lump sums, the PHA will not include alimony or child support in annual income. Alternately, the PHA will only count alimony or child support if it can verify three months of payments.

6-I.I. NONRECURRING INCOME [24 CFR 5.609(b) (24 and Notice PIH 2023-27)]

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This exclusion does not include unemployment income and other types

of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

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.

Sanctions Resulting in the Reduction of Welfare Benefits [24 CFR 5.615]

HACC 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, HACC must include in annual income “imputed” welfare income. HACC must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

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 welfare 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.I. NONRECURRING INCOME [24 CFR 5.609(b) (24 and Notice PIH 2023-27)]

Nonrecurring income, which is income that will not be repeated beyond the coming year (e.g., 12 months following the effective date of the certification) based on information provided by the family, is excluded from annual income. The PHA may accept a self-certification from the family stating that the income will not be repeated in the coming year. See Chapter 7 for PHA policies related to verification of nonrecurring income.

Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income as nonrecurring income, even if the source, date, or amount of the income varies.

Income that has a discrete end date and will not be repeated beyond the coming year during the family’s upcoming annual reexamination period will be excluded from a family’s annual income as nonrecurring income. This exclusion does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to:

- Nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities;
- Payments for eviction prevention;
- Security deposits to secure housing;
- Payments for participation in research studies (depending on the duration); and
- General one-time payments received by or on behalf of the family.

Nonrecurring income that is excluded under the regulations includes:

- Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment [24 CFR 5.609(b)(24)(i)].
- Direct federal or state payments intended for economic stimulus or recovery [24 CFR 5.609(b)(24)(ii)].
- Amounts directly received by the family as a result of state refundable tax credits or state or federal tax refunds at the time they are received [24 CFR 5.609(b)(24)(iii) and (iv)].
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries) [24 CFR 5.609(b)(24)(v)].
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization [24 CFR 5.609(b)(24)(vi)]. When calculating annual income, PHAs are prohibited from assigning monetary value to non-monetary in-kind donations received by the family [Notice PIH 2023-27]. Non-recurring, non-monetary in-kind donations from friends and family are excluded as non-recurring income.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings [24 CFR 5.609(b)(24)(vii)].

6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME [24 CFR 5.609(b)]

Other exclusions contained in 24 CFR 5.609(b) that have not been discussed earlier in this chapter include the following:

- Payments received for the care of foster children or foster adults or state or tribal kinship or guardianship care payments [24 CFR 5.609(b)(4)].
- Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation [24 CFR 5.609(b)(5)]. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that are received in lieu of wages for workers' compensation are included in annual income [Notice PIH 2023-27].
- Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member [24 CFR 5.609(b)(6)].

- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled [24 CFR 5.609(b)(7)].
- Income and distributions from any Coverdell education savings account under Section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under Section 529 of such Code [24 CFR 5.609(b)(10)].
- Income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by federal, state, or local government [24 CFR 5.609(b)(10)].
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(b)(11)].
- Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance [24 CFR 5.609(b)(17)]. This income exclusion applies only to veterans in need of regular aid and attendance and not to other beneficiaries of the payments, such as a surviving spouse [Notice PIH 2023-27].
- Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car) [24 CFR 5.609(b)(20)]. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable [Notice PIH 2023-27].
- Payments received by tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other federal law [24 CFR 5.609(b)(21)]. Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family’s annual income for purposes of determining eligibility. However, as explained in Notice PIH 2023-27, payments made under the Cobell Settlement, and certain per capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of *annual income* in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by Notice PIH 2023-27.
- Replacement housing “gap” payments made in accordance with 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments [24 CFR 5.609(b)(23)].
- Income earned on amounts placed in a family’s Family Self-Sufficiency account [24 CFR 5.609(b)(27)].
-
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred e.g., special equipment, clothing,

transportation, childcare, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(i)(12)(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) [(24 CFR 5.609(b)(12)(i)].
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount 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 [24 CFR 5.600(b)(12)(iii)].
- Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, 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 unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

HACC Policy

HACC 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 of 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].

HACC 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, HACC 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.

The end of participation in a training program must be reported in accordance with the PHA’s interim reporting requirements (see Chapter 11).

- 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(b)(13)]
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)]

- Amounts that HUD is required by federal statute to exclude 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(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary.
- HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on May 20, 2014. 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) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
 - (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
 - (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
 - (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
 - (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
 - (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
 - (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
 - (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)

- (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
- (l) 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)
- (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (o) 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 Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
- (q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (r) The value of any childcare 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)
- (s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (t) 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)
- (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109-249) (See Section 6-I.L. for exceptions.)

- (v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))

- (w) 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)
- (x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- (y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))
- (z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations
- (aa) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance [See also Notice PIH 2019-09]

PART II: ASSETS

HACC Policy (MTW) – Effective July 1, 2024

HACC will allow families to self-certify assets do not exceed \$50,000 per Chapter 7 of the Administrative Plan.

6-II.A. OVERVIEW

Annual income includes all actual anticipated income from assets (unless otherwise excluded by the regulations) even if the asset itself is excluded from net family assets [Notice PIH 2023-27].

The regulation at 24 CFR 5.603(b)(3) provides a list of items that are excluded from the calculation of net family assets. Note, unlike previous versions of the regulations, the current regulations do not list types of assets that are included in annual income. Instead, HUD relies on the definition of items excluded from assets to provide the scope of what is included. Exhibit 6-2 provides the regulatory definition of *net family assets*.

Optional policies for family self-certification of assets are found in Chapter 7. Policies related to the asset limitation may be found in Chapter 3.

Income from assets is always anticipated, irrespective of the income examination type.

HACC Policy

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. The PHA will 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 PHA 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 PHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

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 PHA to show why the asset income determination does not represent the family's anticipated asset income.

6-II.B. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE **[24 CFR 5.603(b)(2)]**

PHAs must include the value of any business or family assets disposed of by an applicant or participant 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 or reexamination, as applicable, in excess of the consideration received for the asset.

An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value. [Notice PIH 2023-27].

Minimum Threshold

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

PHA Policy

The PHA 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.

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.

PHA 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. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

Asset Owned by a Business Entity

If a business entity (e.g., limited liability company or limited partnership) owns the asset, then the family's asset is their ownership stake in the business, not some portion of the business's assets. However, if the family holds the assets in their own name (e.g., they own one third of a restaurant) rather than in the name of a business entity, then the percentage value of the asset owned by the family is what is counted toward net family assets (e.g., one-third of the value of the restaurant) [Notice PIH 2023-27].

Family Declaration

PHA 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 PHA may verify the value of the assets disposed of if other information available to the PHA does not appear to agree with the information reported by the family.

6-II.C. ASSET INCLUSIONS AND EXCLUSIONS

Checking and Savings Accounts [Notice PIH 2023-27]

HUD considers bank accounts as non-necessary items of personal property. Whether or not necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's checking and/or savings accounts would not be considered when calculating net family assets.

However, actual income from checking and savings accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded.

ABLE Accounts [24 CFR 5.609(b)(10); Notice PIH 2019-09]

An Achieving a Better Life Experience (ABLE) account is a type of tax-advantaged savings account that an eligible individual can use to pay for qualified disability expenses. Section 103 of the ABLE Act mandates that an individual's ABLE account (specifically, its account balance, contributions to the account, and distributions from the account) is excluded when determining the designated beneficiary's eligibility and continued occupancy under certain federal means-tested programs. The PHA must exclude the entire value of the individual's ABLE account from the household's assets. Distributions from the ABLE account are also not considered income. However, all wage income received, regardless of which account the money is paid to, is included as income.

***Investment Accounts Such as Stocks, Bonds, Saving Certificates, and Money Market Funds
[24 CFR 5.603(b)(1)]***

HUD considers financial investments such as stocks and bonds non-necessary items of personal property. Whether non-necessary personal property is counted toward net family assets depends on the combined value of all of the family's assets.

- When the combined value of net family assets is greater than \$50,000, as adjusted by inflation, financial investments such as stocks and bonds are considered part of net family assets. In this case, the value of the family's checking and/or savings accounts would be counted toward net family assets.
- When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets. In this case, the value of the family's financial investments such as stocks and bonds would not be considered when calculating net family assets.

However, actual income from financial accounts is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, but when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is \$0.

PHA Policy

The PHA will include interest or dividends earned by investment accounts 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.

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

Necessary and Non-Necessary Personal Property [24 CFR 5.603(b)(3)(i)]

All assets are categorized as either *real property* (e.g., land, a home) or *personal property*.

Personal property includes tangible items, like boats, as well as intangible items, like bank accounts.

The value of necessary items of personal property is excluded from the calculation of net family assets. Necessary items of personal property include a car used for commuting or medical devices.

HUD defines *necessary personal property* as items essential to the family for the maintenance, use, and occupancy of the premises as a home; or they are necessary for employment, education, or health and wellness. Necessary personal property includes more than merely items that are indispensable to the bare existence of the family. It may include personal effects (such as items that are ordinarily worn or utilized by the individual), items that are convenient or useful to a reasonable existence, and items that support and facilitate daily life within the family's home. Necessary personal property also includes items that assist a household member with a disability, including any items related to disability-related needs, or that may be required for a reasonable accommodation for a person with a disability. Necessary personal property does not include bank accounts, other financial investments, or luxury items. Items of personal property that do not qualify as necessary personal property are classified as non-necessary personal property.

The combined value of all **non-necessary** items of personal property is only included in annual income when the combined total value exceeds \$50,000 (adjusted annually by HUD). When the combined value of all non-necessary personal property does not exceed \$50,000, as adjusted by inflation, all non-necessary personal property is excluded from net family assets.

While not an exhaustive list, the following table from Notice PIH 2023-27 provides examples of necessary and non-necessary personal property.

| Necessary Personal Property | Non-Necessary Personal Property |
|---|---|
| <p>Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter)</p> <p>Furniture, carpets, linens, kitchenware</p> <p>Common appliances</p> <p>Common electronics (e.g., radio, television, DVD player, gaming system)</p> <p>Clothing</p> <p>Personal effects that are not luxury items (e.g., toys, books)</p> <p>Wedding and engagement rings</p> <p>Jewelry used in religious/cultural celebrations and ceremonies</p> <p>Religious and cultural items</p> <p>Medical equipment and supplies</p> <p>Health care–related supplies</p> <p>Musical instruments used by the family</p> <p>Personal computers, phones, tablets, and related equipment</p> <p>Professional tools of trade of the family, for example professional books</p> <p>Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities</p> <p>Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)</p> | <p>Recreational car/vehicle not needed for day-to-day transportation for personal or business use (campers, motorhomes, traveling trailers, all-terrain vehicles (ATVs))</p> <p>Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds)</p> <p>Recreational boat/watercraft</p> <p>Expensive jewelry without religious or cultural value, or which does not hold family significance</p> <p>Collectibles (e.g., coins/stamps)</p> <p>Equipment/machinery that is not used to generate income for a business</p> <p>Items such as gems/precious metals, antique cars, artwork, etc.</p> |

HACC Policy

In determining the value of non-necessary personal property, HACC will use the family’s estimate of the value. HACC may obtain an appraisal 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.

Lump-Sum Additions to Net Family Assets [24 CFR 5.609(b)(24(viii); Notice PIH 2023-27]

The regulations exclude income from lump-sum additions to family assets, including lottery or other contest winnings as a type of nonrecurring income.

In addition, lump sums from insurance payments, settlements for personal or property losses, and recoveries from civil actions or settlements based on claims of malpractice, negligence, or other breach of duty owed to a family member arising out of law that resulted in a member of the family becoming a family member with a disability are excluded from income.

Further, deferred periodic amounts from Supplemental Security Income (SSI) and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts are also excluded from income.

However, these amounts may count toward net family assets. The PHA must consider any actual or imputed returns from assets as income at the next applicable income examination. In the case where the lump sum addition to assets would lead to imputed income, which is unearned income, that increases the family's annual adjusted income by 10 percent or more, then the addition of the lump sum to the family's assets will trigger an immediate interim reexamination of income in accordance with Chapter 11. This reexamination of income must take place as soon as the lump sum is added to the family's net family assets unless the addition takes place in the last three months of family's income certification period and the PHA chooses not to conduct the examination.

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.

HACC Policy

Any lump-sum receipts are only counted as assets if they are retained by a family in a form recognizable as an asset. [RHIIP FAQs]. For example, if the family receives a \$1,000 lump sum for lottery winnings, and the family immediately spends the entire amount, the lump sum will not be counted toward net family assets.

Jointly Owned Assets [Notice PIH 2023-27]

For assets owned jointly by the family and one or more individuals outside of the assisted family, the PHA must include the total value of the asset in the calculation of net family assets, unless:

- The asset is otherwise excluded;
- The family can demonstrate that the asset is inaccessible to them; or
- The family cannot dispose of any portion of the asset without the consent of another owner who refuses to comply.

If the family demonstrates that they can only access a portion of an asset, then only that portion's value is included in the calculation of net family assets for the family.

Any income from a jointly owned asset must be included in annual income, unless:

- The income is specifically excluded;

- The family demonstrates that they do not have access to the income from that asset; or
- The family only has access to a portion of the income from that asset.

If the family demonstrates that they can only access a portion of the income from an asset, then only that portion's value is included in the calculation of income from assets.

If an individual is a beneficiary who is entitled to access the account's funds only upon the death of the account's owner, and may not otherwise withdraw funds from an account, then the account is not an asset to the assisted family, and the family should provide proper documentation demonstrating that they are only a beneficiary on the account.

Trusts [24 CFR 5.609(b)(2) and 5.603(b)(4)]

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).

The following types of trust distributions are excluded from annual income:

- Distributions of the principal or corpus of the trust; and
- Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account. There are two types of trusts, *revocable* and *irrevocable*.

When the creator sets up an *irrevocable trust*, the creator has no access to the funds in the account. Irrevocable trusts not under the control of any member of the family or household are not assets. Typically, special needs trusts are considered irrevocable. The value of the trust is not included in net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household [24 CFR 5.603(b)(4)]. Where an irrevocable trust is excluded from net family assets, the PHA must not consider actual income earned by the trust (e.g., interest earned, rental income if property is held in the trust) for so long as the income from the trust is not distributed. If the value of the trust is not considered part of the family's net assets, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

A *revocable trust* is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account.

The value of revocable trusts that are not under the control of the family are excluded from net family assets. This happens when a member of the assisted family is the beneficiary of a revocable trust, but the grantor is not a member of the assisted family. In this case the beneficiary does not "own" the revocable trust, and the value of the trust is excluded from net family assets. For the revocable trust to be considered excluded from net family assets, no family or household member may be the account's trustee. If this is the case, then distributions from the trust are treated as follows:

- All distributions from the trust's principal are excluded from income.
- Distributions of income earned by the trust (i.e., interest, dividends, realized gains, or other earnings on the trust's principal), are included as income unless the distribution is used to pay for the health and medical expenses for a minor.

Revocable trusts under the control of the family or household (e.g., the grantor is a member of the assisted family or household) are considered assets and must be included in net family assets.

If the value of the trust is considered part of the family's net assets, then distributions from the trust are not considered income to the family. The PHA must count all actual returns (e.g., interest earned) from the trust as income or, if the trust has no actual returns (e.g., if the trust is comprised of farmland that is not in use) and the total value of the combined net family assets exceeds \$50,000 (as that amount is updated for inflation), as imputed returns, as applicable.

Life Insurance [FR Notice 2/14/23 and Notice PIH 2023-27]

Net family assets do not include the value of term life insurance, which has no cash value to the individual before death.

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. The cash value is the surrender value. While the cash value of an insurance policy is considered an asset, the face value of any policy is not. If such a policy earns dividends or interest that the family could elect to receive, the amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

Tax Refunds [24 CFR 5.603(b)(3)(xi) and Notice PIH 2023-27]

All amounts received by a family in the form of federal tax refunds or refundable tax credits are excluded from a family's net family assets for a period of 12 months after receipt by the family.

At the time of an annual or interim reexamination of income, if the federal tax refund was received during the 12 months preceding the effective date of the reexamination, then the amount of the refund that was received by the family is subtracted from the total value of the account in which the federal tax refund or refundable tax credits were deposited. When the subtraction results in a negative number, then the balance of the asset is considered \$0.

If the tax refund or refundable tax credit is deposited into another excluded asset, such as a retirement account or a Coverdell Education Savings Account, then the deposit will have no effect on the balance of the asset (i.e., there is no need for the PHA to subtract the amount of the deposit from the value of the excluded asset).

Asset Exclusions [24 CFR 5.603(b)]

The following are excluded from the calculations of net family assets:

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
 - *Real property* as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
 - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)];

- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)];

- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)];
- The value of any “baby bond” account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)];
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)];
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)];
- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family [24 CFR 5.603(b)(3)(xi)].
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

6-II.D. DETERMINING INCOME FROM ASSETS

In some cases, amounts that are excluded from net family assets may be included as annual income when disbursements are made to a family from an asset. In other cases, amounts are excluded from annual income as a lump-sum addition to net family assets, but those funds are then considered a net family asset if held in an account or other investment that is considered part of net family assets [Notice PIH 2023-27].

Net Family Assets

Net family assets are defined as the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

PHA 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 such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations*, p. 24].

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

- The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of 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.

The cash value of real property or other assets with negative equity would be considered \$0 for the purposes of calculating net family assets. Negative equity in real property or other investments does not prohibit the family from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets [Notice PIH 2023-27].

Actual Income from Assets

Income from assets must be included on the Form HUD-50058 regardless of the amount of income. Actual income from assets is always included in a family's annual income, regardless of the total value of net family assets or whether the asset itself is included or excluded from net family assets, unless that income is specifically excluded by 24 CFR 5.609(b).

Income or returns from assets are generally considered to be interest, dividend payments, and other actual income earned on the asset, and not the increase in market value of the asset. The increase in market value is relevant to the cash value of the asset for the purpose of determining total net family assets and imputing income.

The PHA may determine the net assets of a family based on a self-certification by the family that the net family assets do not exceed \$50,000 (adjusted annually by HUD), without taking additional steps to verify the accuracy of the declaration [24 CFR 5.618(b)]. Policies related to verification of assets are found in Chapter 7 of this policy.

The PHA may not calculate or include any imputed income from assets when net family assets total \$50,000 or less [24 CFR 5.609(b)(1)]. The actual income from assets must be included on the Form HUD-50058.

Imputed Income from Assets

When net family assets exceed \$50,000 (adjusted annually by HUD), the PHA may not rely on self-certification. If actual returns can be calculated, the PHA must include actual income from the asset on Form HUD-50058 (for example, a savings account or CD where the rate of return is known). If actual returns cannot be calculated, the PHA must calculate imputed returns using the HUD-determined passbook rate (for example, real property or a non-necessary item of personal property such as a recreational boat). If the PHA can compute actual income from some but not all assets, the PHA must compute actual returns where possible and use the HUD-determined passbook rate for assets where actual income cannot be calculated [24 CFR 5.609(a)(2)].

An asset with an actual return of \$0 (such as a non-interest-bearing checking account), is not the same as an asset for which an actual return cannot be computed (such as non-necessary personal property). If the asset is a financial asset and there is no income generated (for example, a bank account with a zero percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0.

PART III: ADJUSTED INCOME

6-III.A. INTRODUCTION

Overview

HUD regulations require HACC to deduct from annual income any of five mandatory deductions for which a family qualifies and allow the PHA to deduct other permissive deductions in accordance with PHA policy. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611.

5.611 *Adjusted income* means annual income (as determined under § 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) Mandatory deductions

- (1) \$480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (2) \$525 for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (3) The sum of the following, to the extent the sum exceeds ten percent of annual income:
 - (i) Unreimbursed health and medical care 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.; 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

6-II.B. DEPENDENT DEDUCTION

An allowance of \$480 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [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 \$525 is taken for any elderly or disabled family (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [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. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a) (3) (i) and 5.603(b)]

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ten percent of annual income.

This 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.

Definition of *Medical Expenses*

HUD regulations define *health and medical care expenses* at 24 CFR 5.603(b) to mean ““ any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.” Medical insurance premiums continue to be eligible health and medical care expenses. Health and medical care expenses may be deducted from annual income only if they are eligible and not otherwise reimbursed and may only be deducted for elderly or disabled families.

Although HUD revised the definition of *health and medical care expenses* to reflect the Internal Revenue Service (IRS) general definition of medical expenses, HUD is not permitting PHAs to specifically align their policies with IRS Publication 502 for determining which expenses are included in HUD’s mandatory deduction for health and medical care expenses. PHAs must review each expense to determine whether it is eligible in accordance with HUD’s definition of *health and medical care expenses*.

(a)

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

HACC 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 a health and medical care or disability assistance expenses, HACC will consider them health and medical care 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)]

Unreimbursed reasonable expenses for attendant care and auxiliary apparatus for each member of the family who is a person with disabilities 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.

HACC 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, HACC 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 HACC 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 Auxiliary Apparatus [Notice PIH 2023-27]

Auxiliary apparatus items may include expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to enable a person who is blind or has low vision to read or type or special equipment to assist a person who is deaf or hard of hearing.

Eligible Attendant Care [Notice PIH 2023-27]

Examples of attendant care expenses can include teaching a person with disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day. The family determines the type of attendant care that is appropriate for the person with disabilities.

HACC Policy

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, HACC 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.

HACC Policy

HACC determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, HACC will collect information from organizations that provide services and support to persons with disabilities. A family may present, and HACC will consider, the family's justification for costs that exceed typical costs in the area.

Families That Qualify for Both Health and Medical and Disability Assistance Expenses

HACC 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 health and medical care or disability assistance expenses, HACC will consider them health and medical care 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 (including foster children) 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.”

If the child is disabled and over age 13, HACC may consider this a disability assistance expense and refer to unreimbursed reasonable attendant care in excess of 3% of annual income (reference 5.611(a)(3)(ii)) 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 services provided in the private market.

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

HACC 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, HACC 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. When child care is charged by the hour, an allowance will be made only for the number of hours needed to pursue the eligible activity. An allowance for reasonable travel time will also be allowed.

Seeking Work

HACC 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 HACC.

Furthering Education

HACC 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

HACC 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.

HACC 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].

HACC 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, HACC 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. HACC 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

HACC 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.

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, HACC 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.

HACC 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, HACC will use the schedule of child care costs from a qualified local entity that either subsidizes child care costs or licenses child care providers. Families may present, and HACC will consider, justification for costs that exceed typical costs in the area.

6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]

Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]

The regulations provide for two types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can

be deducted in excess of five percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two categories; phased-in relief or general relief, as defined below.

Phased-In Relief

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024. The family must receive phased-in relief if they are determined to be eligible as of January 1, 2024. These families will begin receiving a 24-month phased-in relief at their next annual or interim reexamination, whichever occurs first.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first 12 months.
- At the conclusion of 12 months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another 12 months.
- At the conclusion of 24 months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
 - When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

Prior to the end of the 24-month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

PHAs must track the 24-month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second 12-month phase-in period. The phase-in must continue for families who move to another public housing unit at the same PHA. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the PHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA. When a family moves with continued assistance or ports to a new PHA, the family must continue to receive the phased-in relief. The family must receive the remaining calendar months of the percentage phase-in. The PHA must use the existing phase-in documentation to determine the remaining calendar months and the percentage phase-in.

PHA Policy

The PHA will not continue the phased-in relief for families who move from public housing to HCV. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

General Relief

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in PHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

PHA Policy

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) and that the family's financial hardship is a result of a change in circumstances. The PHA defines *a change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with PHA policies.

Examples of circumstances constituting a financial hardship may include the following situations:

The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;

The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or

Other circumstances as determined by the PHA.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request a hearing.

If the family qualifies for an exemption, the PHA will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after 90 days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional 90-day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of 90-day extensions.

PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The PHA will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

Child Care Expense Hardship Exemption [24 CFR 5.611(d) and Notice PIH 2023-27]

A family whose eligibility for the child care expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the child care expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the child care deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

PHA Policy

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The PHA defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the child care expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (child care expenses or health and medical expenses) are more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the child care expense is still necessary even though the family member is no longer employed or furthering their education. The PHA will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the PHA will document the file with the reason and will attempt to obtain third-party verification prior to the end of the 90-day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families 30 days' notice of any increase in rent.

If the PHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

PHA Policy

The PHA will make a determination of whether the family qualifies within 30 calendar days and will notify the family in writing of the result within 10 business days of the determination.

If the PHA denies the hardship exemption request, the PHA notice will also state that if the family does not agree with the PHA determination, the family may request an informal hearing.

If the family qualifies for an exemption, the PHA will include all required information listed above as well as information on how to request a 90-day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to 90 days.

The PHA may, at its discretion, extend the hardship exemptions for additional 90-day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of 90-day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional 90-day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

PHAs must notify the family if the hardship exemption is no longer necessary, and the hardship exemption will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide 30 days' notice of rent increase, if applicable.

PHA Policy

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The PHA will extend relief for an additional 90-days if the family demonstrates to the PHA's satisfaction that the family continues to qualify for the hardship exemption. The PHA will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end of each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the PHA may terminate the hardship exemption if the PHA determines that the family no longer qualifies for the exemption.

6-III.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)(ii)]

The PHA may adopt additional permissive deductions from annual income if they establish a policy in the administrative plan. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128] Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.

A PHA that adopts such deductions must have sufficient funding to cover the increased housing assistance payment cost of the deductions. A PHA will not be eligible for an increase in HCV renewal funding for subsidy costs resulting from such deductions.

PHA Policy

The PHA has opted not to use permissive deductions.

PART IV.A.: CALCULATING FAMILY SHARE AND HACC SUBSIDY

6-IV.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 HACC

HACC has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-V.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]

HACC Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 CFR 5.630]

HACC Policy

The minimum rent for this locality is \$0.

If HACC is awarded Tenant Based Rental Assistance (TBRA) with HOME funds, it shall follow the State minimum rent \$10.

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 HACC's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy HACC 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-V.C.)

HACC Subsidy [24 CFR 982.505(b)]

HACC 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-V.C.)

Utility Reimbursement [24 CFR 982.514(b); 982.514(c)]

When HACC subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits HACC to pay the reimbursement to the family or directly to the utility provider.

HACC Policy

HACC will make utility reimbursements to the family or at the request of the family can make the reimbursement directly to the utility companies.

HACC may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is \$15.00 or less. Reimbursements must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. HACC must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship.

HACC Policy

HACC will issue all utility reimbursements monthly.

6-IV.B. FINANCIAL HARDSHIPS

FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

HACC Policy

The financial hardship rules described below do not apply at this time in this jurisdiction because HACC has established a minimum rent of \$0.

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 PHA 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.

PHA 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.

PHA 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.

PHA 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 PHA.

PHA Policy

The PHA has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

PHA Policy

The PHA 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. | |
| Family Share – No Hardship | Family Share – With Hardship |
| \$0 30% of monthly adjusted income | \$0 30% of monthly adjusted income |
| \$15 10% of monthly gross income | \$15 10% of monthly gross income |
| N/A Welfare rent | N/A Welfare rent |
| \$50 Minimum rent | \$50 Minimum rent |
| Minimum rent applies. TTP = \$50 | Hardship exemption granted. TTP = \$15 |

PHA 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 PHA will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

PHA Policy

The PHA will require the family to repay the suspended amount within 30 calendar days of the PHA's notice that a hardship exemption has not been granted.

Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA 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 PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed, and the hardship is now a long-term hardship.

PHA Policy

The PHA will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

Long-Term Hardship

If the PHA determines that the financial hardship is long-term, the PHA 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.

PHA 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-IV.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505; 982.503(b)]

Overview

HACC's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of HACC's payment standards. The establishment and revision of HACC'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 HACC'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 HACC 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, HACC must use the appropriate payment standard for the exception area.

HACC 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, HACC 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 HACC 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 a PHA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, the PHA is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect [FR Notice 11/16/16].

However, if the PHA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, the PHA may either reduce the payment standard to the current amount in effect on the PHA's payment standard schedule or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The PHA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the PHA must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. The PHA's policy on decreases

in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

HACC Policy

If HACC changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, the PHA will reduce the payment standard at reexamination following the effective date of the decrease.

HACC will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.

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].

HACC Policy (MTW) – Effective July 1, 2024

Revised payment standards will be applied to a family's rent and subsidy calculation at the first reexamination that is effective after the payment standard is adopted.

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 PHA is allowed to establish a higher payment standard for the family of not more than 120% of the published FMR.

HACC Policy

HACC will use a range of 110% - 120% of fair market rents for reasonable accommodations whichever is lowest to make unit work for household, but will not approve a payment standard exceeding 120% of the fair market rent without HUD pre-approval.

6-IV.G. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]

Overview

A HACC established utility allowance schedule is used in determining family share and HACC subsidy. A family's utility allowance is determined by the size of the dwelling unit leased by a family or the voucher unit size for which the family qualifies using HACC subsidy standards, whichever is the lowest of the two. The PHA may grant a reasonable accommodation request higher than the applicable amount if such a higher utility allowance is needed as a reasonable accommodation. See Chapter 5 for information on HACC's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

HACC Policy (MTW) – Effective July 1, 2024

Revised utility allowances will be applied to a family's rent and subsidy calculation at the first reexamination that is effective after the allowance is adopted.

Reasonable Accommodation and Individual Relief

The PHA may grant requests for individual relief from charges in excess of the utility allowance on reasonable grounds, such as special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA an explanation of the need for individual relief and an explanation about the amount of additional allowance required [see HCV GB, p. 18-8]. PHAs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company.

HACC Policy

The family must request the higher allowance and provide the PHA with information about the amount of additional allowance required.

The PHA will consider the following criteria as valid reasons for granting individual relief:

The family's consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, the PHA will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or PHA may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility allowance will be provided to all families at admission as part of the information on payment standards and utility allowances in the briefing packet. The PHA will also provide information on utility relief programs or medical discounts (sometimes referred to as “Medical Baseline discounts”) that may be available through local utility providers.

At its discretion, the PHA may reevaluate the need for the increased utility allowance at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or PHA-supplied equipment that is beyond the family’s control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

6-IV.H. 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. HACC must prorate the assistance provided to a mixed family. HACC 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 HACC subsidy for a family is calculated at \$500 and two of four family members are ineligible, HACC subsidy would be reduced to \$250.

HACC Policy

For prorated families mixed family tenant rent cannot exceed total monthly income.

EXHIBIT 6-1: ANNUAL INCOME FULL DEFINITION

24 CFR 5.609

(a) Annual income includes, with respect to the family:

(1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

(b) Annual income does not include the following:

(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

- (ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.
- (3) Earned income of children under 18 years of age.
- (4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.
- (5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.
- (6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.
- (7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.
- (8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively.
- (9)
 - (i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from— (

1) The Federal government;

(2) A State, Tribe, or local government;

(3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);

(4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or

(5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

(1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;

(2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section); (

3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

(1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;

(2) Expressly to assist a student with the costs of higher education; or

(3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government.

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)

(i) 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);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount 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.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, 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 unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) 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.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

(16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) 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.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude 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 paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing “gap” payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

- (iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
- (v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).
- (vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
- (vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.
- (25) Civil rights settlements or judgments, including settlements or judgments for back pay.
- (26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.
- (27) Income earned on amounts placed in a family's Family Self Sufficiency Account.
- (28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:
 - (i) 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; and
 - (ii) 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.

EXHIBIT 6-2: TREATMENT OF FAMILY ASSETS

24 CFR 5.603(b) Net Family Assets

(1) Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment.

(2) In determining net family assets, PHAs or owners, as applicable, must 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 consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify

excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all nonnecessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal

Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any “baby bond” account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) 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 trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION

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

(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

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, Notice PIH 2023-27]

INTRODUCTION

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

HACC must follow the verification guidance provided by HUD in Notice PIH 2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary HACC policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

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 HACC.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516, 982.551; CFR 5.230; and Notice PIH 2023-27]

The family must supply any information that HACC or HUD determines is necessary to the administration of the program and must consent to HACC verification of that information [24 CFR 982.551]. All adult family members must sign consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.

Form HUD-9886 [24 CFR 5.230(b)(1), b (2), (c)(4), and (c)(5)]; Notice PIH 2023-27

All adult applicants and participants sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Form HUD-9886 at admission. Participants, prior to January 1, 2024, signed and submitted Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that the Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886 at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886 will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

HACC Policy

Family members turning 18 years of age between recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next or interim or regular reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and the PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines, the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent.

Penalties for Failing to Consent [24 CFR 5.232]

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

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.

HACC Policy

HACC has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with PHA policy.

In order for a family to revoke their consent, the family must provide written notice to HACC.

Within 10 business days of the date the family provides written notice, HACC will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, HACC will notify their local HUD office.

7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice PIH 2023-27]

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous 12-month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

Means-tested federal public assistance programs include:

- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the *Federal Register*.

If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the 12-month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-tested program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the PHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and child-care expenses deducted from a family's annual income, except for when a family is approved for a child-care expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

HACC Policy

HACC will not accept other programs' Safe Harbor determinations of income at annual reexamination to determine the family's total annual income.

The PHA will not accept other programs' determinations of income for any new admission or interim reexamination.

7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year to years two and three.

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

HACC Policy

HACC will not use a Safe Harbor income determination from a federal assistance program to determine the family's annual income as outlined above; therefore, HACC will not use streamlined income determinations where applicable.

7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and

- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.

HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD’s Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
 - Written third-party verification from the source, also known as “family-provided verification”
 - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

File Documentation

HACC 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 HACC 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.

7-I.E. LEVEL 5 AND 6 VERIFICATIONS: UP-FRONT INCOME VERIFICATION (UIV)

Up-front income verification (UIV) refers to HACC’s use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to HACC.

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 HACC 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 HACC.

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

HACC must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations or recertifications of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system:

EIV Income and IVT Reports

PHAs are required to obtain an EIV Income and IVT report for each family any time the PHA conducts an annual reexamination. However, PHAs are not required to use the EIV Income and IVT reports:

- At annual reexamination if the PHA used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the PHA must pull the report within 120 days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

HACC Policy

The PHA will ensure that all EIV Income Reports and IVT reports are pulled within 120 days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in participant files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of the family's participation.

When the PHA determines through EIV 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.

New Hires Report [Notice PIH 2023-27]

The New Hires Report identifies participant families who have had new employment within the last six months. The report is updated monthly.

PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

HACC Policy

In accordance with PHA policies in Chapter 11, the HACC does not process interim reexaminations for families who have increases in earned income, unless a prior interim decrease for earned income was processed. The PHA will only review the New Hires Report at annual reexamination.

No Income Reported by HHS or SSA Report

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that the participant does not have any income. PHAs obtain written, third-party verification of any income reported by the participant. The PHA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

HACC Policy

The PHA will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The PHA will re-verify the status of participants identified on the report quarterly. Based on the information provided by the family and in EIV, the PHA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the PHA determines through this report 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 Report

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

PHAs are required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

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

HACC Policy

The PHA will identify participants whose identity verification has failed by reviewing EIV's *Identity Verification Report* on a monthly basis.

The PHA will attempt to resolve discrepancies by obtaining appropriate documentation from the participant. When the PHA determines that discrepancies exist as a result of PHA errors such as spelling errors or incorrect birth dates, it will correct the errors promptly.

Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

HACC Policy

The PHA will review the Deceased Tenants Report on a monthly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The PHA must notify the owner in writing of the deceased head of household.

PHAs may list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

HACC Policy

The PHA will list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for any rental assistance or continued occupancy. The PHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

Other EIV Reports [Notice PIH 2023-27]

The PHA is required to review the Multiple Subsidy Report at least quarterly and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

Upfront Income Verification Using Non-HUD Systems (Optional)

HUD encourages PHAs to utilize other upfront verification sources such as the Work Number and web-based state benefits systems.

HACC Policy

HACC will inform all applicants and participants of its use of a Non-HUD System if used.

7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

EIV + Self-Certification

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

HACC Policy

HACC will not utilize EIV + Self-Certification.

Written Third-Party Verification from the Source

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within 120 days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents 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. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer’s transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The PHA is required to obtain, at minimum, two current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the PHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the PHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

HACC Policy

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

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

As verification of earned income, HACC will require the family to provide the most current, consecutive 60 days of pay stubs. At the PHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the PHA may request additional paystubs or a payroll record.

7-I.G. LEVEL 3 VERIFICATION:

WRITTEN, THIRD-PARTY FORM [Notice PIH 2023 -27]

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." PHAs send a PHA-developed form directly to the third-party source by mail, fax, or email and the source completes the form by hand (in writing or typeset).

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification. The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

HACC Policy

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

7.I.H. LEVEL 2: ORAL THIRD-PARTY VERIFICATION [Notice PIH 2023-27]

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

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 must 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.

The PHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.

HACC Policy

In collecting third-party oral verification, HACC 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 HACC 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 2023-27]

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.

HACC Policy

If the family cannot provide third-party documents, the PHA will not pay the service charge required to obtain third-party verification, and a self-certification will be acceptable as the only means of verification.

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

Primary Documents

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

Imputed Assets

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

HACC Policy

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

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

For families with net assets totaling \$50,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

HACC Policy (MTW) – Effective July 1, 2024

For families with net assets totaling \$50,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration.

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

7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtaining information via all other required verification techniques.

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

- A source of income is fully excluded
- Net family assets total \$50,000 or less and the PHA has adopted a policy to accept self-certification
- The family declares that they do not have any present ownership in any real property
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The PHA has adopted a policy to implement streamlined triennial recertifications for fixed sources of income (See Chapter 11)

When the PHA was required to obtain third-party verification but instead relied on self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

HACC 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 HACC.

HACC may require a family to certify that a family member does not receive a particular type of income or benefit. HACC will not require families to provide self-certification for changes in bank accounts.

The self-certification must be made in a format acceptable to HACC and must be signed by the family member whose information or status is being verified. All self-certifications will include the following language:

“I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802).”

PART II: VERIFYING FAMILY INFORMATION

7-II.A. VERIFICATION OF LEGAL IDENTITY

HACC Policy

HACC will require families to furnish verification of legal identity for each household member.

| Verification of Legal Identity for Adults | Verification of Legal Identity for Children |
|---|--|
| Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicles identification card U.S. Military Discharge (DD214) Current U.S. passport Current government employer identification card with picture | Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records |

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided and at HACC’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 HACC.

HACC Policy

HACC requires a signature and contact information of person certifying identity must be on documents for purposes of allowing HACC to do a verification check. DHS documents on letterhead and signed will be accepted.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the PHA has reason to doubt the identity of a person representing him or herself to be a participant.

7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216, Notice PIH2012-10]

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.

Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The PHA 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

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

HACC Policy

The PHA will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

HACC Policy

HACC 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 PHA within 90 days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The PHA must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

HACC Policy

HACC 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. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, HACC will terminate the individual's assistance.

If an applicant family includes a child under 6 years of age who joined the household within the 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

When a 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 PHA 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 PHA 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 PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

HACC Policy

HACC 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.

HACC Policy

HACC 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, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

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.

HACC Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, HACC 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.

HACC 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.

Marriage

HACC Policy

Certification by the head of household is normally sufficient verification. If HACC has reasonable doubts about a marital relationship, HACC will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

Separation or Divorce

HACC Policy

Certification by the head of household is normally sufficient verification. If HACC has reasonable doubts about a separation or divorce, HACC will require the family to provide documentation of 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

HACC Policy

If an adult member who was formerly a member of the household is reported to be permanently absent. HACC will allow the head of household to self-certify that the adult is no longer a member of the household. The family may provide evidence to support the claim 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

HACC 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

HACC Policy

HACC 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 cohead.

The family reports childcare 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.

HACC Policy

In accordance with the verification hierarchy described in Section 7-1.B, HACC 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 HACC cannot verify at least one of these exemption criteria, HACC 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, HACC 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

HACC Policy

HACC 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 the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of *independent student* (see section 3-II.E)

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, except in cases in which the PHA determines that the student is a *vulnerable youth* (see section 3-II.E)

7-II.F. DOCUMENTATION OF DISABILITY

HACC must verify the existence of a disability in order to allow certain income disallowances and deductions from income. HACC is not permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. HACC may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If HACC receives a verification document that provides such information, HACC will not place this information in the tenant file. Under no circumstances will HACC 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 <http://www.hhs.gov/ocr/privacy/>.

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 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].

HACC Policy

For family members claiming disability who receive disability benefits from the SSA, HACC 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, HACC 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), HACC 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 HACC.

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. 403.

HACC Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable medical 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 HACC 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.

HACC may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

HACC Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the PHA 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.

HACC Verification [HCV GB, pp. 5-3 and 5-7]

For family members aged 62 or older who claim to be eligible immigrants and who received assistance on June 19, 1995, 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, HACC must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

HACC will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. VERIFICATION OF PREFERENCE STATUS

HACC must verify any preferences claimed by an applicant that determined placement on the waiting list.

HACC Policy

HACC will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. HACC will verify this preference using HACC's termination records.

Verification of Homeless Status must be verified and documented.

Verification of disability in accordance with policies in Section 7-II.F of this chapter; and

Verification of Domestic Violence status must be verified and documented. The PHA will require one of the following verifications:

HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation), or alternate documentation allowed by form HUD-5382; or

Written certification from a service provider verifying the participant is in significant danger and must relocate which will likely result in the need for the participant to receive a tenant-based voucher.

Verification of Veteran status will be verified with a DD214.

Youth that are currently served in the Foster Youth to Independence Program (FYI) administered by the PHA whose FYI voucher is expiring due to the 36-month or 5-year statutory time limit, or youth that are currently served in the FYI rental assistance extension program administered by the PHA The PHA will require the following verification:

Verification of disability in accordance with policies in Section 7-II.F of this chapter; and

Written referral from the current FYI case manager of record (DHS, Homeless Youth Continuum, or another agency) certifying that the youth will have a lack of adequate housing as a result of the expiration of FYI voucher rental assistance extension and needs a tenant-based voucher to ensure uninterrupted housing assistance.

Verification of homeless or at risk of homelessness or exiting an institution must be documented using a letter on letterhead and signed by a homeless shelter, institution or similar provider.

PART III: VERIFYING INCOME AND ASSETS

Chapter 6, 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 income reported by the family must be verified. This part provides HACC policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. EARNED INCOME

Tips

HACC Policy

Unless tip income is included in a family member's W-2 by the employer or in UIV verification sources, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year or tips anticipated to be received in the coming year.

Wages

HACC Policy

When the PHA requires third-party verification of wages other than tips, the family must provide originals of the most current, 60 consecutive days of pay stubs.

7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

The PHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

HACC Policy

Business owners and self-employed persons will be required to provide:

Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).

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.

For self-employed individuals who claim they do not file tax returns, The PHA will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in "gig employment" (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the PHA will provide a format for the individual to declare their income and expenses. The PHA will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as the Schedule C of the individual's tax return and the corresponding IRS Form 1099 or 1099k.

HACC 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 its accuracy at all future reexaminations.

At any reexamination HACC 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, HACC 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 HACC 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

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 11.

Social Security/SSI Benefits [PIH Notice 2023-27]

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last

120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 120 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

7-III.D. ALIMONY OR CHILD SUPPORT [Notice PIH 2023-27]

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

HACC Policy

The methods the PHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be obtained in the following order of priority:

Copy of the receipts and/or payments for the 12 months prior to PHA request

Third-party verification form from the state or local child support enforcement agency

Third-party verification form from the person paying the support

Family's self-certification of amount received

Note: Families are not required to undertake independent enforcement action.

7-III.E. NONRECURRING INCOME [Notice PIH 2023-27]

Income that will not be repeated beyond the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

HACC Policy

The PHA will accept self-certification from the family stating that income will not be repeated in the coming year. However, the PHA may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

7-III.F. ASSETS AND INCOME FROM ASSETS

Net Family Assets [24 CFR 5.603]

At admission and reexam, for families with net assets totaling \$50,000 or less (adjusted annually), the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over \$50,000, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

HACC Policy

For families with net assets totaling \$50,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Any income the family expects to receive from assets will be included in the family's annual income. The family will be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the PHA will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the PHA will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 12. At admission and reexam, the PHA may accept a self-

certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the PHA must obtain third-party verification.

HACC Policy

Both at admission and reexam, the PHA will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The PHA reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property, the PHA will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the PHA will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

7-III.G. 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. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. HACC needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

HACC Policy (MTW) effective July 1, 2024

HACC will verify the value of assets disposed of only if they exceed \$50,000:

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

HACC 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 HACC verified this amount. Now the person reports that she has given this \$10,000 to her son. HACC has a reasonable estimate of the value of the asset; therefore, reverification 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 50,000. Based upon market conditions, this declaration does not seem realistic. Therefore, HACC will verify the value of this asset.

7-III.H. NET INCOME FROM RENTAL PROPERTY

HACC 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, HACC 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.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS

[Notice PIH 2023-27]

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

7-III.J. RETIREMENT ACCOUNTS

HACC Policy

HACC will accept a 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.K. INCOME FROM EXCLUDED SOURCES [Notice PIH 2023-27]

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to document why third-party verification is not available, or report the income on the 50058. *Fully excluded income* is defined as income where the entire amount qualifies to be excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any *Federal Register* notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds).

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there

is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA is required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student).

HACC Policy

HACC will accept the family's self-certification as verification of fully excluded income. The PHA may request additional documentation if necessary to document the income source.

The PHA will verify the source and amount of partially excluded income as described in Part 1 of this chapter.

7-III.L. ZERO ANNUAL INCOME STATUS

[Notice PIH 2023-27]

A *zero income review* is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR § 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

HACC Policy

The PHA will check UIV sources and/or may request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, earned income, child support, etc., are not being received by families claiming to have zero annual income.

The PHA will also require that each family member who claims zero income status complete a zero-income form. If any sources of income are identified on the form, the PHA will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The PHA will only conduct interims in accordance with PHA policy in Chapter 11.

7-III.M. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b)(9)]

The regulations under HOTMA distinguish between two categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].

HACC Policy

The PHA will request written third-party verification of both the source and the amount of student financial assistance. 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, unless the student's only source of assistance is assistance under Title IV of the HEA, the PHA will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.

If the PHA is unable to obtain third-party written verification of the requested information, the PHA will pursue other forms of verification following the verification hierarchy in section 7-I.B.

7-III.N. 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 or a *vulnerable youth* in accordance with PHA policy [24 CFR 5.612, FR Notice 4/10/06, p. 18146, and FR Notice 9/21/16]. 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.

HACC Policy

If HACC is required to determine the income eligibility of a student's parents, HACC will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). HACC 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 HACC. The required information must be submitted (postmarked) within 10 business days of the date of HACC's request or within any extended timeframe approved by HACC.

HACC 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 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 HACC 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 for a full discussion of this deduction. HACC must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or cohead 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 for a discussion of the deduction. HACC must verify that the head, spouse, or cohead is 62 years of age or older or a person with disabilities.

7-IV.B. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) ([Pub. L. 104-191](#), 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

HACC Policy

Medical expenses will be verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

When income is projected at new admission or interim, HACC will make a best effort to determine what expenses from the past are likely to continue to occur in the future. HACC will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.

HACC will use written third-party verification forms, if the family is unable to provide acceptable documentation.

When income is projected at new admission or interim, if third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, HACC must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified health and medical care 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 health and medical care expense deduction is permitted only for households in which the head, spouse, or cohead is at least 62, or a person with disabilities. HACC 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 health and medical care expenses deduction, the costs must qualify as medical expenses. See Chapter 6 for HACC's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the health and medical care expenses deduction, the costs must not be reimbursed by another source.

HACC Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

HACC Policy

At new admission and interim reexam, when anticipated costs are related to on-going payment of medical bills incurred in past years, HACC 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.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The PHA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

Amount of Expense

Attendant Care

HACC Policy

Expenses for attendant care will be verified through:

Written third-party documents provided by the family, such as receipts.

Third-party verification form signed by the provider, if family-provided documents are not available.

When income is projected at new admission or interim, if third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months.

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

Auxiliary Apparatus

HACC 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, HACC 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 Chapter 6).
- The expense is not reimbursed from another source (as described in Chapter 6.).

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. HACC will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

HACC must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

HACC Policy

HACC 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.

HACC 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. CHILDCARE EXPENSES

Policies related to childcare expenses are found in Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, HACC must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

Eligible Child

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. HACC 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 childcare deduction, the costs must not be reimbursed by another source.

HACC Policy

The family (and the care provider) will be required to certify that the childcare expenses are not paid or reimbursed to the family from any source.

Pursuing an Eligible Activity

HACC 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.

HACC Policy

Information to be Gathered

HACC 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, HACC will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases HACC will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to HACC any reports provided to the other agency.

In the event third-party verification is not available, HACC will provide the family with a form on which the family member must record job search efforts. HACC will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

HACC will request third-party documentation to verify that the person permitted to further his or her education by the childcare 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

HACC will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. 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 Childcare

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

HACC Policy

HACC will verify that the type of childcare selected by the family is allowable, as described in Chapter 6.

HACC will verify that the fees paid to the childcare provider cover only childcare 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).

HACC will verify that the childcare 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 childcare costs can be deducted.

HACC Policy

The actual costs the family incurs will be compared with HACC'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, HACC will request additional documentation, as required, to support a determination that the higher cost is appropriate.

**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 PHA.
- 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.

- Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
- Form I-94 Arrival-Departure Record annotated with one of the following:
 - “Admitted as a Refugee Pursuant to Section 207”
 - “Section 208” or “Asylum”
 - “Section 243(h)” or “Deportation stayed by Attorney General”
 - “Paroled Pursuant to Section 221 (d)(5) of the USCIS”

- Form I-94 Arrival-Departure Record with no annotation accompanied by:
 - A final court decision granting asylum (but only if no appeal is taken);
 - 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);
 - A court decision granting withholding of deportation; or
 - A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

- Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.

Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.

- 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 HACC to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and HACC-established requirements.

All units must pass an HQS inspection prior to the approval of a lease and at least once every 24 months during the term of the contract, and at other times as needed, to determine that the unit meets HQS. HUD also requires HACC to determine that rents for units under the program that are reasonable when compared to comparable unassisted units in the market area.

This chapter explains HUD and HACC 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 HACC 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 HACC 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.

PART I: PHYSICAL STANDARDS

8-I.A. 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-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

Tenant Preference Items

HUD requires HACC to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, HACC must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable.

Exhibit 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.

8-I.B. ADDITIONAL LOCAL REQUIREMENTS

HACC may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a) (4)].

Thermal Environment [HCV GB p.10-7]

HACC 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.

HACC 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

HACC Policy

As permitted by HUD, HACC has adopted the following guidance that elaborates 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.

Floors

All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced.

All floors should have some type of baseshoe, trim, or sealing for a "finished look." Vinyl baseshoe is permitted.

Sinks

All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.

Toilets

All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

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.

Bedroom Definition

For a room to be considered as a bedroom, it must meet the minimum definition as established by HUD. This includes, but is not limited to, the following: A room primarily designed for sleeping with a source of natural light, code complying means of emergency egress (2 ways to get out in a fire, usually implies a window and a door), an outlet with overhead permanent light fixture or two outlets, a permanent source of heat somewhere with the house that is adequate to heat all spaces, operable window if egress source. Water heaters must be in a closet or enclosed if it exists in the space. Bedrooms cannot exist in a utility area. In addition, HACC's policy states that bedrooms in units built after 1940 will include closets built into the wall units. Rooms that have been remodeled will qualify as bedrooms as long as the remodel has included the addition of a closet and window easement. HACC may use tax information to determine the total number of bedrooms in the unit.

8-I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires HACC 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 HACC notification.

HACC Policy

The following are considered life-threatening conditions:

Any condition that jeopardizes the security of the unit

Lack of Alternative means of exit in case of fire or blocked egress

Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling

Natural or LPgas or fuel oil leaks

A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit, water heater, or heating, ventilation or cooling system is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled

Any electrical problem or condition that could result in shock or fire

Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition

Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.

Conditions that present the imminent possibility of injury

Absence of a functioning smoke detector and carbon monoxide detector

If an owner fails to correct life- threatening conditions as required by HACC, HACC will enforce the HQS in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family- caused life-threatening condition as required by HACC, HACC will enforce the family obligations. See 8-II.H.

8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]

Family Responsibilities

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "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 ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL [24 CFR 35.1225; FR Notice 1/13/17; PIH Notice 2017-13]

If a HACC 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 six years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, HACC must complete a risk assessment of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. 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 HACC, 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; 40 CFR 745.227]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS and HACC will take action in accordance with Section 8-II.G.

HACC reporting requirements, and data collection and record keeping responsibilities related to children with an environmental intervention blood lead level are discussed in Chapter 16.

8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.403]

A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one bedroom or living/sleeping room for each two persons

A unit that does not meet these HQS space standards is defined as *overcrowded*.

A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space [HCV GB p. 10-6]. A bedroom or living/sleeping room must have at least:

- One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets)

If HACC determines that a unit is overcrowded because of an increase in family size or a change in family composition, HACC must issue the family a new voucher, and the family and HACC must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, HACC 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

HACC conducts the following types of inspections as needed: Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections.* HACC conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program.
- *Annual/ Biennial Inspections.* HUD requires HACC 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.

HACC Policy

HACC will conduct regular unit inspections every other year, biennially, for all tenant-based HCV participants unless:

- There is a concerning factor regarding inspections or unit status; or
- Family lives in a unit owned or managed by a landlord or property management company with a concerning inspection history.

As families are admitted onto the program, they may be placed on a biennial inspection schedule. Participants placed on a biennial schedule will remain on that schedule unless a concern arises, or HUD rules change, at which point they will be placed back on an annual schedule until the concern no longer exists.

HACC may at any time take photos of units while doing inspections and is strongly encouraged to do so by HUD.

HACC no longer ties Annual/Biennially inspections to Annual Recertification date. To be more efficient, safety during winter near the mountain and reduce travel costs, HACC does inspections based on geographic location. In order to facilitate this more efficient process, an inspection may be completed later than 12 months but never to exceed 24 months since the last inspection.

- *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 inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

Inspection of HACC-Owned Units [24 CFR 982.352(b)]

HACC must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a HACC-owned unit. A HACC-owned unit is defined as a unit that is owned by HACC that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by HACC). The independent agency must communicate the results of each inspection to the family and HACC. The independent agency must be approved by HUD and may be the unit of general local government for HACC jurisdiction (unless HACC is itself the unit of general local government or an agency of such government).

HACC Policy (MTW) – Effective July 1, 2024

The PHA opted to inspect its own units with HUD approval under Moving to Work authority. Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control inspections by a third-party outside agency.

Inspection Costs [Notice PIH 2016-05]

The PHA may not charge the family for unit inspections or reinspections [24 CFR 982.405(e)]. In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fee for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the PHA may charge a reasonable fee to owners for reinspections in two situations: when the owner notifies the PHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to the PHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

HACC Policy

HACC will not charge a fee for failed reinspections.

Remote Video Inspections (RVIs) [Notice PIH 2020-31]

As an alternative to some or all on-site inspections, the PHA may, but is not required to, perform HQS inspections from a remote location using video streaming technology and a proxy at the inspection site. Since there may be some circumstances in which the application of technology provides insufficient information or evidence to allow the PHA to make appropriate determinations about whether a condition violates HQS, Notice PIH 2020-31 requires that if a PHA chooses to implement RVIs, the PHA should have policies and procedures in place to address such limitations.

PHA Policy

The PHA will not conduct any HQS inspection using RVI.

Notice and Scheduling

The family must allow HACC to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

HACC Policy

Both the family and the owner will be given reasonable notice of annual or biennial 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 7:00 a.m. and 6:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, HACC will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

HUD permits HACC to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

HACC Policy

When a family occupies the unit at the time of inspection, an authorized adult must be present for the inspection. The presence of the owner or the owner's representative is permitted but is not required.

At initial inspection of a vacant unit, the presence of the owner and a family representative is permitted but is not required.

8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]

Initial Inspections [FR Notice 1/18/17]

The PHA may, but is not required to, approve assisted tenancy and start HAP if the unit fails HQS inspection, but only if the deficiencies identified are non-life threatening. Further, the PHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last 24 months.

HACC Policy

The unit must pass the HQS inspection on or before the effective date of the HAP contract.

HACC may rely on alternative inspections such as HUD, HOME or LIHTC inspections as needed.

Timing of Initial Inspections

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)].

HACC Policy

HACC 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).

In cases where HACC is not able to complete the inspection within 15 days, the file will be documented as to the reason it was not practicable.

Inspection Results and Reinspections

HACC Policy

If the unit fails the HQS inspection, the owner is notified in writing. A follow-up inspection is conducted to verify completion. As provided by federal regulation, HACC may conditionally approve a unit where the only fail item is exterior paint.

If an owner fails to complete the necessary repairs within 30 days from notification, and the applicant's voucher has expired, additional time may be allowed to complete the repairs, if the owner is making a good faith effort to do the required work, and the request for additional time is made and approved prior to the initial deadline. In some cases, the family may be eligible for suspension (See Chapter 5 II. E.)

Copies of the inspection forms are provided to the owner and participant upon their request.

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.

HACC Policy

If utility service is not available for testing at the time of the initial inspection, HACC will allow the utilities to be placed in service after the unit has met all other HQS requirements. HACC will reinspect the unit to confirm that utilities are operational before the HAP contract is executed by HACC.

Appliances [Form HUD-52580]

HACC Policy

If the family is responsible for supplying the stove and/or refrigerator, HACC 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 HACC. HACC 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/BIENNIAL HQS INSPECTIONS [24 CFR 982.405 and 982.406; Notice PIH 2016-05]

HACC Policy

Each unit under HAP contract must be inspected biennially within 24 months of the last full HQS inspection. HACC reserves the right to require annual inspections of any owner at any time.

HACC may accept the results of inspections performed by HUD or for other housing programs such as HOME or LIHTC.

Scheduling the Inspection

HACC Policy

HACC may accept the results of inspections performed by HUD or for other housing programs such as HOME or LIHTC.

If an adult family member cannot be present on the scheduled date, the family should request that HACC reschedule the inspection. HACC and the family will agree on a new inspection date that generally should take place within 14 days of the originally scheduled date for good cause. HACC may schedule an inspection more than 30 days after the original date for good cause or reasonable accommodation.

If the family misses the first scheduled appointment without requesting a new inspection date, HACC will automatically schedule a second inspection. If the family misses two scheduled inspections without HACC approval, HACC 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 [24 CFR 982.405(g)]

If a participant or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, the PHA must inspect the unit within 24 hours of notification. If the reported condition is not life-threatening, the PHA must inspect the unit within 15 days of notification.

HACC Policy

During a special inspection, HACC 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/biennial inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled HACC may elect to conduct a full annual/biennial inspection.

8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); 24 CFR 985.3(e); HCV GB, p. 10-32]

HUD requires a HACC 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 three months. The selected sample should be drawn to represent a cross section of neighborhoods and the work of a cross section of inspectors.

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, HACC will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

HACC Policy

When life-threatening conditions are identified, HACC 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 HACC's notice.

When failures that are not life-threatening are identified, HACC will send the owner and the family a written notification of the inspection results within five 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 HACC-approved extension), the owner's HAP will be abated in accordance with HACC 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 HACC-approved

extension, if applicable) the family's assistance may be terminated in accordance with HACC policy (see Chapter 12).

Extensions

For conditions that are life-threatening, HACC cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, HACC may grant an exception to the required time frames for correcting the violation, if HACC determines that an extension is appropriate [24 CFR 982.404].

HACC Policy

Extensions will be granted in cases where HACC 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 or with the manager's pre-approval. 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.

Reinspections

HACC Policy

If an owner/tenant certification of repairs is not allowed and a physical re-inspection is required, HACC will conduct a reinspection immediately following the end of the corrective period as scheduled by HACC, or any HACC approved extension.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, HACC will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with HACC policies. If HACC is unable to gain entry to the unit in order to conduct the scheduled reinspection, HACC 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.

The PHA will not accept self-certification of HQS repairs.

In cases when there are no more than six deficiencies, HACC may accept, at its discretion, an owner's and tenant's certification that required repairs were made, if all deficiencies are minor items which may include but are not limited to the following:

- Replacement of burnt-out light bulbs (interior/exterior)
- Replacement of cracked or missing switch or socket plates
- Replacement or repair of windows or doors that allow air filtration
- Replacement, cleaning, or repair of stove (new knobs, burners, oven elements, drip pans)
- Minor water leaks
- Carbon Monoxide Detector/Monitor repair or placement, if there are more than one only.
- Smoke Alarm repair or replacement, if there are more than one only.
- Replacement, cleaning or repair of refrigerator (new handle, sharp edges, door seal, shelves, defrost freezer)
- Replacement of broken or destroyed interior doors (bedroom, bathroom, etc.)
- Repair of closet doors off track
- Floor covering repairs
- Removal of excess debris
- Yard cleanup (including removal of old cars, car parts, moving, weeding, etc.)
- Repair of wall or ceiling holes in units with no lead-based paint issues
- Replacement of cracked toilet seat(s)
- Replacement of missing heater knobs

In determining units qualified for an owner's and tenant self-certification of completed repairs, the PHA will consider its experience with the owner, tenant and property. The PHA is under no obligation to allow self-certification and may elect to do a re-inspection to verify the correction of any HQS deficiencies. The PHA may also elect to do an audit inspection of self-certified repairs or conduct a re-inspection at the tenant's request. If, as a result of the audit inspection or re-inspection, the PHA finds the deficiencies have not been corrected, the PHA will take enforcement action, and self-certification will no longer be an option.

If the PHA does not receive the completed and signed self-certification of repairs by the due date, the PHA will take an enforcement action and self-certification will no longer be an option.

8-II.G. ENFORCING OWNER COMPLIANCE

If the owner fails to maintain the dwelling unit in accordance with HQS, HACC must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement

If an owner fails to correct HQS deficiencies by the time specified by HACC, HUD requires HACC 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.

HACC Policy

HACC will make all HAP abatements effective the first of the month following the expiration of HACC specified correction period (including any extension).

HACC will inspect abated units within 8 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

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

HACC must decide how long any abatement period will continue before the HAP contract will be terminated. HACC 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. HACC will issue a voucher to permit the family to move to another unit as described in Chapter 10.

HACC Policy

The maximum length of time that HAP may be abated is 60 days or with manager pre-approval 90 days. However, if the owner completes corrections and notifies HACC before the termination date of the HAP contract, HACC 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 HACC 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 HACC (and any extensions), HACC 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

Except in the case of certain LIHTC and HOME assisted units, no HAP contract can be approved until HACC 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.

HACC-Owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a HACC-owned unit, HACC 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. A HACC-owned unit is defined as a unit that is owned by HACC that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by HACC). The independent agency must communicate the results of the rent reasonableness determination to the family and HACC. The independent agency must be approved by HUD and may be the unit of general local government for HACC jurisdiction (unless HACC is itself the unit of general local government or an agency of such government).

HACC Policy (MTW) – effective July 1, 2024

The PHA opted to determine rent reasonableness for the PHA-owned units with HUD approval under Moving to Work authority.

Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control testing of rent reasonableness determinations by a third-party outside agency.

8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

Owner-Initiated Rent Determinations

HACC 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. HACC (or independent agency in the case of HACC-owned units) will assist the family with the negotiations upon request. At initial occupancy HACC 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.

HACC 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 term, HACC 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 HACC will consider unit size and length of tenancy in the other units.

HACC 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 rent adjustments will be effective the first of the month following 60 days after HACC's receipt of the owner's request or on the start of a month specified by the owner, whichever is later.

HACC and HUD-Initiated Rent Reasonableness Determinations

HUD requires HACC to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the fair market rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct HACC to make a determination at any other time. HACC may decide that a new determination of rent reasonableness is needed at any time.

HACC Policy

In addition to the instances described above, HACC will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) HACC determines that the initial rent reasonableness determination was in error or (2) HACC determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

LIHTC and HOME-Assisted Units [24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of: (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

HACC Policy

For LIHTCs, the rents should not be increased to an amount that the expense for the tenant portion of the rent exceeds 30% or 40% the Tenant's Adjusted Gross Income (AGI). Program guidelines need to be followed, and the tenant expense portion of their monthly rent should not result in any excess above what was approved for the tenant's income as established by the Housing Authority and/or as allowed under IRS regulations (Guidance from OHCS). Oregon law specifically prohibits charging a higher rent to a tenant who is an HCV participant, no Oregon LIHTC owner may legally charge a higher rent for an HCV-assisted unit than for non-assisted units in the property (ORS 659A.421). Charging greater rent to individuals based on their income is a violation of Oregon law and may be a violation of federal law.

8-III.C. HOW COMPARABILITY IS ESTABLISHED

Factors to Consider

HUD requires HACC to take into consideration the factors listed below when determining rent comparability. HACC 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 impose 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. [Notice PIH 2002-22, Notice PIH 2005-20, and Notice PIH 2020-19].

Note: Notice PIH2020-19, issued August 21, 2020, provides further guidance on the issue of what constitutes an assisted unit.

Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) 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 HACC 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 HACC information regarding rents charged for other units on the premises.

8-III.D. HACC RENT REASONABLENESS METHODOLOGY

How Market Data Is Collected

HACC Policy

HACC will collect and maintain data on market rents in HACC'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 as available and old data will be eliminated from the database.

How Rents Are Determined

HACC 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. HACC 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, HACC 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 what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

HACC will notify the owner of the rent HACC can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. HACC 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 five business days of HACC'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-52580-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.

HACC Policy

HACC will only consider rent assistance for units that meet HUD's definition of Manufactured Home which requires that the unit have been originally built to be a permanent residence (not a recreational vehicle) and be no less than.

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 openable 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 less than 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 within 30 days when identified by the PHA
- 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.
- Maintain covered housing without deteriorated paint if there is a child under six in the family

For units occupied by environmental intervention blood lead level (lead poisoned) children under six years of age, a risk assessment must be conducted (paid for by the PHA). If lead hazards are identified during the risk assessment, the owner must complete hazard reduction activities within 30 days.

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.

Sanitary Condition

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 or 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.

- (6) *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.
- (7) *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.
- (8) *Sanitary Conditions*. The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- (9) *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 HACC to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, HACC 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 HACC 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 HACC, 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

HACC 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)].

HACC may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of HACC'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 PHA approval of the tenancy, the PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The PHA must also inform the owner or manager of his/her rights and obligations under the Violence against Women Act (VAWA) [24 CFR 5.2005(a)(2)].

HACC must provide the owner with the family's current and prior address (as shown in HACC records); and the name and address (if known to HACC) of the landlord at the family's current and prior address. [24 CFR 982.307 (b)(1)].

HACC is permitted, but not required, to offer the owner other information in HACC's possession about the tenancy history or drug trafficking of family members [24 CFR 982.307(b)(2)].

HACC's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

HACC may not disclose to the owner any confidential information provided by the family in response to a HACC request for documentation of domestic violence, dating violence, sexual assault, stalking or human trafficking, except at the written request or with the written consent of the individual providing the documentation [see 24 CFR 5.2007(b)(4)].

HACC Policy

HACC will not screen applicants for family behavior or suitability for tenancy.

HACC will provide the owner with the family's current and prior address and phone number for the landlord (if known) of family's current and prior residence.

HACC will release any other reference information they might have, as permitted by law, if the owner requests it in writing and submits a signed authorization from the family. This information may be available as a result of past or current participation in any of the Section 8 programs, or as a past or current resident of any program operated or managed by HACC. The available information may include tenancy history of family members, eviction notices received, warning and lease violation letters, damage claims paid, and information about drug trafficking by family members.

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 HACC to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to HACC:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517 or HUD approved HACC RTA Form
- After lease up, a copy of the lease, if applicable including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA 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 HACC 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 HACC 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 RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

HACC Policy

The RTA must be signed by both the family and the owner and must be submitted prior to the expiration of the family's voucher. The owner may submit the RTA on behalf of the family.

HACC will require the owner to disclose information on lead-based paint in the dwelling unit in the format acceptable to HACC. HACC's disclosure form should be signed by the owner and submitted to HACC at the same time the RTA is submitted.

Completed RTA must be submitted as hard copies, in-person, by mail, email or by fax.

The family may not submit, and HACC will not process, more than one (1) RTA at a time. When the family submits the RTA, HACC will review the RTA for completeness.

If the RTA is incomplete (including lack of signature by family, owner, or both), HACC will notify the family and the owner of the deficiencies.

Corrections, missing information and/or missing documents will generally be accepted as hard copies, in-person, by mail, email or by fax. However, HACC may choose to accept information over the phone when missing information is minimal.

Because of the time sensitive nature of the tenancy approval process, HACC will attempt to communicate with the owner and family by phone, fax, or email. HACC will use mail when the parties cannot be reached by phone, fax, or email.

9-I.C. OWNER PARTICIPATION

HACC does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where HACC may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which the PHA must disapprove an owner. 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 HACC's jurisdiction. This includes the dwelling unit they are currently occupying.

Ineligible Units [24 CFR 982.352(a)]

HACC 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.

HACC-Owned Units [24 CFR 982.352(b)]

Otherwise, eligible units that are owned or substantially controlled by HACC issuing the voucher may also be leased in the voucher program. In order for a HACC-owned unit to be leased under the voucher program, the unit must not be ineligible housing and HACC 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 a HACC-owned unit without any pressure or steering by HACC.

HACC Policy

HACC does have eligible HACC-owned units available for leasing under the voucher program.

HACC will inform the family of this housing at the time of the briefing. HACC will also inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease without any pressure or steering by HACC.

Special Housing Types [24 CFR 982 Subpart M]

HUD regulations permit, but do not generally require, HACC 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 (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that HACC has chosen to allow.

The regulations do require HACC 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 family share cannot exceed 40 percent of the family’s adjusted monthly income. The term “family share” refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the unit equals the family share. 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 a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; HACC 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 for the assisted tenants is in such standard form.

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

HACC Policy

HACC does not provide a model 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 what utilities and appliances are to be supplied by the owner, and what 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 HACC to approve a shorter initial lease term if certain conditions are met.

HACC Policy

HACC prefers an initial lease term of at least one (1) year; however, it may approve a shorter initial lease term if the PHA determines that:

- Such shorter term would improve housing opportunities for tenants;
- Such shorter term is the prevailing local market practice; and
- Lease and HAP Contract end dates will match landlord lease end dates except where landlord lease exceeds 12 months and all HACC leases and contracts must end on the last day of the month.

During the initial term of the lease, the owner may not raise the rent to tenant [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 stated in the dwelling lease if they exist.

HACC 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. HACC may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if HACC chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

HACC Policy

HACC prohibits the owner from collecting security deposits in excess of amounts charged by the owner to unassisted units.

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 as approved by the PHA minus HACC's housing assistance payments to the owner [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)].

HACC Policy

HACC 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.

PHA Review of Lease

The PHA may review the dwelling lease for compliance with all applicable requirements.

HACC Policy

If the dwelling lease is incomplete or incorrect, HACC 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, email or by fax. HACC will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, HACC will attempt to communicate with the owner and family by phone, fax, or email. HACC will use mail when the parties can't be reached by phone, fax, or email.

The PHA 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 HACC determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

HACC Policy

HACC will not 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, if applicable, HACC 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, HACC 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 HACC and meets the Housing Quality Standards (HQS); the lease provided by HACC or 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 HACC, 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)].

HACC Policy

HACC will make reasonable attempts to complete its determination within 10 business days of receiving all required information.

If the terms of the RTA/ changes for any reason, all changes will be documented by staff. Changes will include but not be limited to negotiation of rent and utilities with HACC. HACC will obtain copies of any supplemental or addendum leases, signed by the family and the owner.

If HACC determines that the tenancy cannot be approved for any reason, the owner and the family will be notified and given the opportunity to address any reasons for disapproval. HACC will instruct the owner and family of the steps that are necessary to obtain approval of 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 or rent reasonableness, HACC 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 HACC and the owner of the dwelling unit. Under the HAP contract, HACC agrees to make housing assistance payments to the owner on behalf of the family, and the owner agrees to comply with all program requirements as stated in the HAP contract.

The HAP contract form is prescribed by HUD.

If HACC has given approval for the family of the assisted tenancy, the owner and HACC must execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

HACC is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

HACC must make its 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.

HACC 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, HACC 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 HACC may not pay any housing assistance payment to the owner.

HACC Policy

Owners who have not previously participated in the HCV program may speak with HACC staff about the program to ensure that they are sufficiently familiar with the

requirements and responsibilities under the HCV program. A Landlord Handbook is available on HACC's website at <http://www.clackamas.us/docs/hacc/landlordbook.pdf>.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to HACC. HACC will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and HACC will execute the HAP contract. HACC will not execute the HAP contract until the owner has submitted IRS form W-9. HACC will ensure that the owner receives a copy of the executed HAP contract.

HACC requires all landlords to sign up for direct deposit of all HAP payments or they must pick up checks at the Administrative Office located at 13930 S. Gain Street, Oregon City, OR 97045.

After unit passes inspection HACC will send the HAP Contract and related Lease documents to the landlord for signatures by the tenant and landlord. The landlord and tenant must sign and return the Contract and related documents and signed lease agreement to HACC at PO Box 1510, 13930 S. Gain Street, Oregon City, OR 97045-0510 before payments will commence.

The start date on the contract will be the latter of the day the unit passes inspection or the lease start date. The lease agreement must be signed by both landlord and tenant and the term must be at least 12 months unless the landlord specifically requests a shorter lease term.

HAP will be held until all original Contracts, Leases and related documents are signed and returned to HACC.

As required under VAWA, once the HAP contract and lease have been executed and the family has been admitted to the program, the PHA will notify families of their rights under VAWA by providing all families with a copy of the domestic violence certification form (HUD-5382) as well as the VAWA notice of occupancy rights (form HUD-5380).

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 HACC a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, HACC approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are required. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances such a change does not include changes in how the landlord or tenant pay for the utilities or appliances each is responsible for under the lease.
- 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 (RTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of the rent to owner, the owner must notify HACC at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)]. HACC 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 terminate the tenancy 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)].

HACC Policy (MTW) – Effective July 1, 2024

Where the owner is requesting a rent increase, HACC will determine whether the requested increase is reasonable. The owner will be notified of the determination either by phone or in writing.

Where the owner is requesting a rent increase, the PHA will determine whether the requested increase is reasonable within 15 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 HACC of the rent change or on the date specified by the owner, whichever is later.

The PHA will not execute a new HAP contract where there are changes in lease requirements governing tenant or owner responsibilities for utilities or appliances. If the owner and the family agree to such changes, the PHA will require a copy of the written agreement executed by the owner and the family. The PHA must receive a copy of the agreement at least 30 days before the changes go into effect.

The PHA will not execute a new HAP contract where there are changes in lease provisions governing the term of the lease. The PHA must receive a copy of the new lease agreement at least 30 days before the lease start date.

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of housing choice is a hallmark of the housing choice voucher (HCV) program. In general, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and HACC policies governing moves within or outside HACC'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 HACC's HCV program, whether the family moves to another unit within HACC's jurisdiction or to a unit outside HACC'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 HACC's jurisdiction. This part also covers the special responsibilities that HACC has under portability regulations and procedures.

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 HACC a copy of the notice at the same time [24 CFR 982.314(d) (1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b) (1) (ii)].

HACC Policy

The family must notify HACC in writing before moving out of the unit or terminating the lease. If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give HACC 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 982.314(b) (2)]. The family must give HACC a copy of any owner eviction notice [24 CFR 982.551(g)]

HACC Policy

The family must give a copy of any owner eviction notice to HACC within seven (7) days of receipt.

The owner must notify HACC in writing of the commencement of procedures for termination of tenancy (this may be a copy of the notice given to the family).

- The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, stalking or human trafficking, and the move is needed to protect the health or safety of the family or family member [24 CFR 982.314(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the PHA, if the family or family member who is the victim reasonably believed that he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.314(b)(4), 24 CFR 982.353(b)]. The PHA must adopt an emergency transfer plan as required by regulations at 24 CFR 5.2007(e).

HACC Policy

If a family requests permission to move with continued assistance based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking or human trafficking, HACC will request documentation in accordance with section 16-IX.D of this plan.

HACC reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases the PHA will document the waiver in the family's file.

The PHA may choose to provide a voucher to facilitate an emergency transfer of the victim without first terminating the assistance of the perpetrator.

Before granting an emergency transfer, the PHA will ensure the victim is eligible to receive continued assistance based on the citizenship or immigration status of the victim.

The PHA has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan.

- HACC has terminated the HAP contract for the family's unit for the owner's breach [24 CFR 982.314(b) (1) (i)].
- HACC 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, HACC must issue the family a new voucher, and the family and HACC must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, HACC 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 HACC 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 HACC may deny a family permission to move and two ways in which a HACC may restrict moves by a family.

Denial of Moves

HUD regulations permit HACC to deny a family permission to move under the following conditions:

VASH

For VASH clients, the referring VAMC must always be consulted prior to a portability move.

Insufficient Funding

HACC may deny a family permission to move if HACC does not have sufficient funding for continued assistance [24 CFR 982.314(e) (1)]. However, Notice2012-42 significantly restricts the ability of PHAs to deny permission to move due to insufficient funding and places further requirements on PHAs regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

HACC Policy

HACC will deny a family permission to move on grounds that HACC does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or HACC; (b) HACC can demonstrate that the move will, in fact, result in higher subsidy costs (c) HACC can demonstrate, in accordance with the policies in Part VIII of Chapter 16, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs; and (d) for portability moves, the receiving PHA is not absorbing the voucher.

If the PHA does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the unit failed HQS), the family may move to a higher cost unit if the move is within the PHA's jurisdiction. The PHA, however, will not allow the family to move under portability in this situation if the family wishes to move to a higher cost area.

For both moves within the PHA's jurisdiction and outside under portability, the PHA will not deny a move due to insufficient funding if the PHA previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. The PHA will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

The PHA will create a list of families whose moves have been denied due to insufficient funding. The PHA will keep the family's request open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. The PHA will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list (see section 4-III.D).

The PHA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

Grounds for Denial or Termination of Assistance

HACC may deny a family permission to move if it has grounds for denying or terminating the family's assistance [24 CFR 982.314(e) (2)].

HACC Policy

If HACC has grounds for denying or terminating a family's assistance, HACC 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.

In determining whether to deny permission to move, the PHA will consider the criteria under federal regulations at 24 CFR 982.552(c) (1). These include:

The family has violated any family obligations under the program.

Any member of the family has been evicted from federally assisted housing in the last five years.

A PHA has terminated assistance under the program for any member of the family.

Any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program (see also 24 CFR 982.553(a) (1))

The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 U.S. Housing Act.

The family has not reimbursed any PHA for amounts 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 breaches an agreement with the PHA to pay amounts owed to a PHA or amounts paid to an owner by a PHA. (The PHA, at its discretion, may offer a family the opportunity to enter into an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA. The PHA may prescribe the terms of the agreement.)

A family participating in the family self-sufficiency (FSS) program fails to comply, without good cause, with the family's FSS contract of participation.

The family has engaged in or threatened abusive or violent behavior toward PHA personnel.

A welfare-to-work (WTW) family fails, willfully and persistently, to fulfill its obligations under the welfare-to-work voucher program.

The family has been engaged in criminal activity or alcohol abuse as described in 24 CFR 982.553.

The PHA will also consider the same extenuating circumstances as would be considered when determining whether to deny or terminate assistance under 24 CFR 982.552(c) (2). These include:

The PHA may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or

termination of assistance on other family members who were not involved in the action or failure.

The PHA may impose, as a condition of continued assistance for other family members, a requirement that other family members who participated in or were culpable for the action or failure will not reside in the unit. The PHA may permit the other members of a participant family to continue receiving assistance.

In determining whether to deny a move for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the PHA will 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 PHA may require the applicant or 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.

If the family includes a person with disabilities, the PHA's decision concerning such action is subject to consideration of reasonable accommodation in accordance with 24 CFR 8.

The PHA's admission and eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

Restrictions on Elective Moves [24 CFR 982.354(c)]

HUD regulations permit HACC to prohibit any elective move by a participant family during the family's initial lease term. They also permit HACC to prohibit more than one elective move by a participant family during any 12-month period. However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, stalking or human trafficking, and the move is needed to protect the health or safety of the family or family member. (For the policy on documentation of abuse, see section 10-I.A.) In addition, the PHA may not establish a policy permitting moves only at reexamination [Notice PIH 2016-09].

HACC Policy

HACC will deny a family permission to make an elective move during the family's initial 12-month lease term. This policy applies to moves within HACC's jurisdiction or outside it under portability.

HACC 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 HACC's jurisdiction.

HACC will deny a family permission to make an elective move if at any time they owe the PHA money. All debts to the PHA must be paid in full before a move is allowed.

HACC will deny a family permission to make an elective move if they have outstanding balances on any Security Deposit Loan. The Security Deposit Loan must be paid in full, and the Tenant must provide proof from Community Lending Works (CLW).

HACC 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, HACC 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 HACC and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.354(d)(2)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.354(d)(2)]. The notices must be in writing [24 CFR 982.5].

Approval

HACC Policy

Upon receipt of a family's notification that it wishes to move, HACC 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. HACC will notify the family of its determination within 10 business days following receipt of the family's notification. For moves outside of HACC's jurisdiction under portability see Part II.B of the Chapter.

Reexamination of Family Income and Composition

HACC Policy

For families approved to move to a new unit within HACC's jurisdiction, the PHA will not perform a reexamination unless the move coincides with the family's regularly scheduled reexamination or the family notifies the PHA of a change in family composition, income or assets. If a family composition changed and a new family member is added, the PHA will conduct a reexamination to determine any new income associated with the additional family member.

For families moving into or families approved to move out of HACC's jurisdiction under portability, HACC will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

HACC Policy

For families approved to move to a new unit within HACC's jurisdiction, HACC will issue a new voucher within 10 business days of HACC's approval to move. Participants requesting to move to another unit may be required to attend a new briefing. At a minimum, participants will be given a briefing packet. HACC will follow the policies set forth in Chapter 5 on voucher term, extensions, 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 HACC approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of HACC's jurisdiction under portability, HACC will follow the policies set forth in Part II of this chapter.

If a family chooses to not provide a Vacate Notice prior to issuance of voucher, no inspection and no HAP Contract will be executed until such time as the family provides a copy of the Vacate Notice.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, HACC 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.

Family move-out.

(1) If the family moves out of the unit, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

(2) 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.

HACC Policy

HACC will pursue a prorated Housing Assistance Payment (HAP) whenever possible for mid-month moves. Should a family give advance notice to vacate mid-month, HACC will prorate rent. HACC will allow overlap in a single month when needed.

Zero HAP Families Who Wish to Move [24 CFR 982.455]

A participant who is not receiving any subsidy, but whose HAP contract is still in force, may request a voucher to move to a different unit. The PHA must issue a voucher to move unless it has grounds to deny assistance under the program regulations. However, if the PHA determines no subsidy would be paid at the new unit, the PHA may refuse to enter into a HAP contract on behalf of the family.

PHA Policy

If a zero HAP family requests to move to a new unit, the family may request a voucher to move. However, if no subsidy will be paid at the unit to which the family requests to move, the PHA will not enter into a HAP contract on behalf of the family for the new unit.

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 PHA that issues the voucher 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 provides all housing services for the family and 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 with its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request [Notice PIH 2016-09].

PHAs commonly act as both the initial and receiving PHA because families may move into or out of their jurisdiction under portability. 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.

In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required forms [24 CFR 982.355(e)(5)].

PHAs must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA if the PHA does not comply with HUD portability requirements [24 CFR 982.355(e)(7)].

10-II.B. HACC POLICIES UNDER 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 982.353(b)]. If there is more than one PHA in the area, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform the initial PHA which PHA it has selected. If the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family [24 CFR 982.255(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. HUD regulations and PHA policy determine whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA 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. If a PHA intends to deny a family permission to move under portability due to insufficient funding, the PHA must notify HUD within 10 business days of the determination to deny the move [24 CFR 982.355(e)].

HACC Policy

In determining whether or not to deny an applicant family permission to move under portability because HACC lacks sufficient funding or has grounds for denying assistance to the family, the HACC will follow the policies established in section 10-I.B of this chapter. If the PHA does deny the move due to insufficient funding, the PHA will notify HUD in writing within 10 business days of the PHA's determination to deny the move.

In addition, HACC 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 982.353(c)].

HACC Policy

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in HACC's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial HACC's jurisdiction for at least 12 months before requesting portability.

HACC will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, and sexual assault, stalking or human trafficking.

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)]. The Violence Against Women Act (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, sexual assault, stalking, or human trafficking 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)]

HACC Policy

HACC will determine whether a participant family may move out of HACC'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. HACC 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 982.353(d)(1)]. The family must specify the area to which the family wishes to move [24 CFR 982.355(c)(1)].

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 982.353(d)(1), 24 CFR 982.355(9)]. 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 2016.09].

Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

HACC Policy

For a participant family approved to move out of its jurisdiction under portability, HACC will use the most recent re-examination documentation.

HACC 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 HACC to provide information on portability to all applicant families that qualify to lease a unit outside HACC's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

HACC Policy

No formal briefing will be required for a participant family wishing to move outside the PHA's jurisdiction under portability. However, the PHA 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 PHA will provide the name, address, and phone of the contact for the PHAs in the jurisdiction to which they wish to move. If there is more than one PHA with jurisdiction over the area to which the family wishes to move, the PHA will advise the family that the family selects the receiving PHA and notify the initial PHA of which receiving PHA was selected. The PHA will provide the family with contact information for all of the receiving PHAs that serve the area. The PHA will not provide any additional information about receiving PHAs in the area. The PHA will further inform the family that if the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family. In this case, the PHA will not provide the family with information for all receiving PHAs in the area.

The PHA will advise the family that they will be under the RHA's policies and procedures, including screening, subsidy standards, voucher extension policies, and payment standards.

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, HACC will follow the regulations and procedures set forth in Chapter 5.

HACC Policy

For participating families approved to move under portability, HACC will issue a new voucher within 10 business days of HACC's approval to move.

The initial term of the voucher will be 120 days.

Voucher Extensions and Expiration

HACC Policy

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 90 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.)

Preapproval Contact with the Receiving PHA

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via e-mail or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [24CFR982.3 55(c)(3)].

HACC Policy

HACC will use e-mail, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

Initial Notification to the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA via email or other confirmed delivery method to expect the family [24 CFR 982.355(c)(3); 24 CFR 982.355(c)(7)]. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(6)].

HACC 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, e-mail address, and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The PHA will pass this information along to the family. The PHA will also ask for the name, address, telephone number, fax and e-mail 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 2016-09]
- A copy of the family's voucher [Notice PIH 2016-09]
- 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(c)(7), Notice PIH 2016-09]
- 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(c)(7), Notice PIH 2016-09]

HACC Policy

In addition to these documents, HACC 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

Initial Billing Deadline [Notice PIH 2016-09]

The deadline for submission of initial billing is 90 days following the expiration date of the voucher issued to the family by the initial PHA. In cases where suspension of the voucher delays the initial billing submission, the receiving PHA must notify the initial PHA of delayed billing before the billing deadline and document the delay is due to the suspension. In this case, the initial PHA must extend the billing deadline by 30 days.

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 notify the receiving PHA in writing. The initial PHA may report to HUD the receiving PHA's failure to comply with the deadline.

If the initial PHA will honor the late billing, no action is required.

HACC Policy

If the PHA has not received an initial billing notice from the receiving PHA within the billing deadline, it will contact the receiving PHA to inform them that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. HACC will send the receiving PHA a written confirmation of its decision by mail.

HACC 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 2016-09]

If the receiving PHA is administering the family's voucher, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill [24 CFR 982.355(e)(2)].

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.

HACC 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. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

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. The initial PHA must continue paying the receiving PHA based on the last form HUD-50058 received, unless instructed otherwise by HUD. The initial PHA may seek absorption of the vouchers by following steps outlined in Notice PIH 2016-09.

Denial or Termination of Assistance [24 CFR 982.355(c)(17)]

At any time, either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553. (For PHA 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)]. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HUD before refusing any incoming portable families [24 CFR 982.355(b)].

Administration of the voucher must be in accordance with the receiving PHA's policies. This requirement also applies to the policies of Moving to Work agencies. The receiving PHA procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving PHA waiting list is not used [24 CFR 982.355(c)(10)]. The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(c)(12)], and the receiving PHA's policies on extensions of the voucher term apply [24 CFR 982.355(c)(14)].

Responding to Initial PHA's Request [24 CFR 982.355(c)]

The receiving PHA must respond via e-mail or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed [24 CFR

982.355(c)(3)]. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date without consent of the initial PHA (24 CFR 982.355(c)(4)).

HACC Policy

HACC will use e-mail, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

Initial Contact with Family

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving PHA's voucher [24 CFR 982.355(c)(8)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA must contact the initial PHA to determine if it will extend the voucher [24 CFR 982.355(c)(13)]. An informal hearing is not required when a voucher has expired without the family leasing a unit.

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 982.355(c)(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 2016-09]. (See later under "Absorbing a Portable Family" for more on this topic.)

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 2012-42]. (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 2016-09].

HACC Policy

HACC will set up an in-office appointment with the family. At this time the application process will be completed, the family will be briefed on the program, and they will be given their voucher and briefing packet. HACC will not require the family to attend a briefing but will suggest that the family attend a full briefing at a later date.

Income Eligibility and Reexamination

The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(9)]. If the receiving PHA opts to conduct a new reexamination for a current participant family, the receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit [24 CFR 982.355(c)(11)].

HACC Policy

For any family moving into its jurisdiction under portability, HACC will conduct a new reexamination of family income and composition and the family will be screened for criminal history. HACC will not delay issuing the family a voucher for this reason. Nor will HACC delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and HACC 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, HACC 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(c)(13)]. 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)(15)].

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 2016-09].

HACC Policy

When a family ports into its jurisdiction, HACC 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 HACC's procedures. HACC 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 30 calendar days from the expiration of the initial PHA's voucher [24 CFR 982.355(c)(13)]. If the initial PHA extends the term of the voucher, the receiving PHA's voucher may not expire before 30 days from the new expiration date of the initial PHA's voucher [Notice PIH 2016-09].

HACC Policy

The receiving PHA's voucher will expire 30 calendar days from the expiration date of the initial PHA's voucher. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire 30 calendar days from the new expiration date of the initial PHA's voucher.

Voucher Extensions [24 CFR 982.355(c)(14), Notice 2016-09]

Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must inform the initial PHA of any extension granted to the term of the voucher. 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.

HACC Policy

HACC generally will not extend the term of the voucher that it issues to an incoming portable family unless HACC 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, or unless the initial PHA requests or approves an extension of the voucher on behalf of the client.

HACC will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Voucher Suspensions [24 CFR 982.303, 24 CFR 982.355(c)(15)]

If the family submits a request for tenancy approval during the term of the receiving PHA's voucher, the PHA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for PHA approval of the tenancy until the date the PHA

notifies the family in writing whether the request has been approved or denied [24 CFR 982.4(b)] (see Section 5-II.E). **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 982.355(c)(16)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [Notice PIH 2016-09]. (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 2016-09]

Administering a Portable Family's Voucher

Portability Billing [24 CFR 982.355(e)]

To cover assistance for a portable family that was not absorbed, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving PHA's program is determined in the same manner as for other families in the receiving PHA's program.

The receiving PHA may bill the initial PHA for the lesser of 80 percent of the initial PHA's ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of 80 percent of the initial PHA's prorated ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee).

If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

HACC Policy

Unless the PHA negotiates a different amount of reimbursement with the initial PHA, the PHA will bill the initial PHA the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

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) in time that the notice will be **received** no later than 60 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2016-09]. This deadline may be extended for 30 additional days if the delay is due to suspension of the voucher's term (see Initial Billing Section). 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.

HACC Policy

HACC will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but may also send the notice by regular mail.

If the receiving PHA fails to send the initial billing by the deadline, 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 2016-09].

Ongoing Notification Responsibilities [Notice PIH 2016-09, 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.

HACC Policy

HACC will send a copy of the updated HUD-50058 by regular mail no later than 10 business days after the effective date of the reexamination

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. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled.

Late Payments [Notice PIH 2016-09]

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 2016-09]

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 2016-09.

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)(17)].

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 [HUD-52665; Notice PIH 2016-09].

HACC Policy

If HACC elects to deny or terminate assistance for a portable family, HACC will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. HACC 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. HACC 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 the PHA has funding available under its annual contributions contract (ACC) [24 CFR 982.355(d)(1), Notice PIH 2016-09].

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 the receiving PHA must send an updated form HUD-52665 to the initial PHA no later than 10 business days following the effective date of the termination of the billing arrangement. [Notice PIH 22016-09]

HACC Policy

If HACC decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, HACC 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 HACC decides to absorb a family after that, it will provide the initial PHA with a copy of form HUD-52665 before the billing period, but no later than 10 business days following the effective date of the termination of the billing arrangement.

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 [24 CFR 982.355(e)(4)].

Chapter 11

REEXAMINATIONS

INTRODUCTION

HACC 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 HACC 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.

Part IV: Non-Interim Reexamination Transaction. This part describes transactions that do not entail changes to the family's adjusted income.

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.

PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

11-I.A. OVERVIEW

HACC 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.

Unlike when performing an interim reexamination or at intake, at annual reexamination, HACC must determine the income of the family for the previous 12-month period, except where HACC uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. PHAs also have the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains HACC'S policies related to streamlined income determinations and the use of safe harbor income verifications.

11-I.B. SCHEDULING REGULAR /BIENNIAL/TRIENNIAL REEXAMINATIONS

The PHA 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].

PHA Policy (MTW) – Effective July 1, 2024

For seniors and people with disabilities households, the PHA will conduct regular reexaminations triennially (once every three years).

As a part of the regular reexamination process, the PHA will determine ongoing eligibility for previously determined household type (seniors and people with disabilities or work-focused).

Changes in household type will be applied at the family's regular reexamination in accordance with policies in this chapter.

HACC Policy

HACC will begin the regular reexamination process no more than 120 days in advance of its scheduled effective date. Generally, HACC will schedule regular 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).

The PHA also may schedule a regular reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Regular Reexamination Process

HACC is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of HACC. However, PHAs may give tenants who were not provided the opportunity the option to complete Form HUD-92006 Supplement to Application for Federally Assisted Housing at this time [Notice PIH 2009-36].

HACC Policy

Reexaminations will be conducted by mail. Notification of the reexamination will be sent by first-class mail and will inform the family of the information and documentation that must be provided to HACC, and the deadline for providing it. Documents will be accepted by mail, by fax, or in-person.

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, as well as to any alternate address provided in the family's file.

An interview will be scheduled if the family requests assistance in providing information or documentation requested by HACC or if there are discrepancies in documentation families may be required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or co-head.

If the family is unable to attend a scheduled interview, the family should contact the PHA in advance of the interview to schedule a new appointment. If a family does not attend the scheduled interview, the PHA will send a second notification with a new interview date and appointment time.

Families that fail to attend two scheduled interviews without PHA approval will be sent a notice of termination in accordance with policies contained in Chapter 12.

An advocate, interpreter, or other assistant may assist the family in the interview process. The family and the PHA must execute a certification attesting to the role and the assistance provided by any such third party.

11-I.C. CONDUCTING REEXAMINATIONS

As part of the reexamination process, families are required to provide updated information to HACC regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

HACC Policy

Families will be asked to supply all required information (as described in the reexamination notice) by the deadline specified in the notice (either post marked the date of the deadline or stamp dated in-person drop off by the deadline). The required information will include a PHA-designated reexamination form, as well as supporting documents or forms related to the family's income, expenses, and family composition.

The PHA will notify the family in writing if any required documentation or information is missing. The missing information or documentation must be provided within 10 business days of the date the PHA notifies the family. 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 period (plus any extensions), the family will be sent a notice of termination (see Chapter 12).

If the family is scheduled for an in-person interview, families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment.

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).

Additionally, HUD recommends that at reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

HACC Policy

At this time, HACC is asking the head of household members to identify if any member of the household has been convicted of a crime in the last 12 months as part of the recertification packet. Family members aged 15 and older must sign a Criminal Background release at reexamination.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (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 PHA 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), HACC must issue the family a new voucher, and the family and HACC must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, HACC 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 or is considered a *vulnerable youth* in accordance with HACC 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.

HACC Policy

During the annual reexamination process, HACC 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 or is considered a *vulnerable youth* 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), HACC will process a reexamination in accordance with the policies in this chapter.

11-I.E. CALCULATING ANNUAL INCOME AT REGULAR REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]

HACC must determine the income of the family for the previous 12-month period and use this amount as the family income for annual reexaminations, except where HACC uses a streamlined income determination as indicated in Chapter 7 of this policy. HACC may also use Safe harbor income determinations dated within the last 12 months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or Safe Harbor income determinations, in determining the income of the family for the previous 12-month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim

reexamination in accordance with HACC policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

Income from assets is always anticipated, irrespective of the income examination type.

A change in income may be a loss of income or the addition of a new source of income.

Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. HACC should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for PHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

Step 1: The PHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within 120 days of the effective date of the annual reexamination;
- The income reported on the most recent HUD-50058; and
- The amount of prior-year income reported by the family on the PHA's annual reexamination paperwork.

Step 2: The PHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the PHA must use the annual income from the interim to determine the family's total annual income, provided there are no additional changes.
- If the PHA did not perform an interim or there have been changes since the last reexamination, the PHA moves to Step 3.

Step 3: If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

- If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:
- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
 - Year-end statements
 - Paycheck with year-to-date amounts
 - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 11-1 provides detailed examples of how the PHA calculates income from different sources at annual reexamination using the above method.

HACC Policy

HACC will not be utilizing the Safe Harbor allowing calculations from a means-tested federal public assistance program. However, where the family disagrees with HACC'S determination of income or HACC has other reason to use third-party verification in these circumstances, then the above will apply.

11-I.F. EFFECTIVE DATES

HACC must establish policies concerning the effective date of changes that result from an annual reexamination [24 CFR 982.516].

HACC 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 generally, 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 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 PHA 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 PHA.

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 HACC by the date specified, and this delay prevents HACC from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS [24 CFR 982.516; Notice PIH 2023-27]

11-II.A. OVERVIEW

Family circumstances may change between annual reexaminations. HUD and HACC policies dictate what kinds of information about changes in family circumstances must be reported, and under what circumstances HACC must process interim reexaminations to reflect those changes. A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of a change

in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than 30 days after the PHA becomes aware of changes in income.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

Reporting

PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. HACC must adopt policies prescribing when and under what conditions the family must report changes in income and family composition [24 CFR 960.257(b)(5)].

HACC Policy

All families must report all changes in family and household composition that occur between regular reexaminations within 7 business days of the change.

HACC will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring PHA Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require HACC approval. However, the family is required to promptly notify HACC of the addition [24 CFR 982.551(h) (2)].

HACC Policy

The family must inform HACC of the birth, adoption or court-awarded custody of a child within 10 business days. The family must provide written documentation such as adoption or custody paperwork.

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 HACC 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 make appropriate adjustments in the family share of the rent and the HAP payment at the effective date of either the annual or interim reexamination [24 CFR 982.516(e)(2)].

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), HACC must issue the family a new voucher, and the family and HACC must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, HACC must terminate the HAP contract in accordance with its terms [24 CFR 982.403].

HACC Policy

Families must request HACC 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 21 cumulative days, within a twelve-month period, and therefore no longer qualifies as a “guest.” Requests must be made in writing and approved by HACC prior to the individual moving in the unit.

HACC will only allow the addition of adults after initial eligibility if:

- If it is in a spousal-type relationship with head of household only
- If to provide live-in care for an elderly or disabled family member

HACC will require all applying to be added to a household to complete an “Add a Person packet” which requires anyone 15 and older to pass a criminal background screening, and must provide photo identification, verification of income documentation, social security card and birth certificate at time of application.

Otherwise, HACC will not approve the addition of adults if not part of the household at initial eligibility, if not included in portability documents or if not permitted as specifically identified above. This means HACC will not add parents, siblings, cousins, aunts, uncles, adult children, and any others.

HACC will not approve the addition of a new family or household member unless the individual meets HACC's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

HACC will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards. No extra bedroom is given to "foster" members added.

If HACC determines an individual meets HACC's eligibility criteria and documentation requirements, HACC 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 another voucher and will be required to move.

If HACC determines that an individual does not meet HACC's eligibility criteria or documentation requirements, HACC 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.

HACC 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 HACC if any household member no longer lives in the unit [24 CFR 982.551(h) (3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], HACC also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit. The PHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

HACC Policy

If a household member ceases to reside in the unit, the family must inform HACC within 7 calendar 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. Notification must be in writing and include any applicable documentation of proof.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform HACC within 7 calendar days.

11-II.C. CHANGES AFFECTING INCOME OR EXPENSES

Overview

Interim reexaminations can be scheduled either because HACC has reason to believe that changes in income or expenses may have occurred, or because the family reports a change.

The PHA must estimate the income of the family for the upcoming 12-month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

Interim Decreases [24 CFR 982.516(c)(2) and Notice PIH 2023-27]

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of

the family's adjusted income. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

HACC Policy

HACC will conduct an interim reexamination any time the family's adjusted income has decreased by 10 percent.

Interim Increases [24 CFR 982.516(c)(3) and Notice PIH 2023-27]

Increases Less than 10 Percent

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

Increases 10 Percent or Greater

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three months of a certification period if a family reports an increase in income within three months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

HACC Policy

When a family reports an increase in their earned income between annual reexaminations, HACC will conduct an interim reexamination if there is a 10 percent

increase and if there was a previous decrease since the family's last annual reexamination.

The PHA will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

The PHA will perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three months of their annual reexamination effective date. However, families who delay reporting income increases until the last three months of their certification period may be subject to retroactive rent increases in accordance with the PHA policies in Chapter 14.

Concurrent Increases in Earned and Unearned Income [Notice PIH 2023-27]

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

Cumulative Increases [Notice PIH 2023-27]

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

Family Reporting

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 982.516(d)].

PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

HACC Policy

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within 7 business days of the date the change takes effect. The family must notify HACC of the changes in writing.

Within 15 business days of the family reporting the change, the PHA will determine whether the change will require an interim reexamination.

If the change will not result in an interim reexamination, the PHA will note the information in the tenant file but will not conduct an interim reexamination. The PHA will send the family written notification within 10 business days of making this determination informing the family that the PHA will not conduct an interim reexamination.

If the change will result in an interim reexamination, the PHA will determine the documentation the family will be required to submit based on the type of change reported and PHA policies in Chapter 7. The PHA will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within 10 business days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, email, fax, or in person. The PHA will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.

11-II.D. EFFECTIVE DATES [24 CFR 982.516(e) and Notice 2023-27]

Changes Reported Timely [Notice PIH 2023-27]

If the family reports a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.
- Rent decreases are effective on the first of the month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

Changes Not Reported Timely [Notice PIH 2023-27]

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

HACC Policy

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, the PHA will apply the decrease the first of the month following completion of the interim reexamination.

However, HACC will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to

extenuating circumstances such as a natural disaster or disruptions to HACC management operations. HACC will decide to apply decreases retroactively on a case-by-case basis.

When HACC applies the results of interim decreases retroactively, HACC will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with HACC policies.

HACC will also clearly communicate the effect of the retroactive adjustment to the owner.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. OVERVIEW

After gathering and verifying required information for an annual or interim reexamination, HACC 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 HACC'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 HACC changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If HACC'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*, during the term of a HAP contract, the PHA is not required to reduce the payment standard as the HAP contract remains in effect. At the family's *second annual* reexamination, the PHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Chapter 6 for the PHA's policy on decreases in the payment standard).

HACC Policy (MTW) – Effective July 1, 2024

If the payment standard amount changes during the term of the HAP contract, the new payment standard will be applied in accordance with policies in Chapter 6.

- 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 HACC'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 or at move.

HACC Policy (MTW) Effective July 1, 2024

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 will be used to determine the payment standard amount for the family in accordance with policies in Chapter 6.

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 HACC'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, HACC 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 [HCV GB, p. 18-8].

HACC Policy (MTW) – Effective July 1, 2024

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first reexamination after the allowance is adopted in accordance with policies in Chapter 6.

HACC will not conduct an interim reexamination solely for the purpose of implementing the revised utility allowance schedule.

For water and sewer utility allowances, where the landlord pays the utility bill and prorates the charge to residents, HACC will use the utility allowance schedule.

11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT

HACC 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 HACC'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).

HACC Policy

The notice to the family will state the procedures for requesting an informal hearing.

11-III.D. DISCREPANCIES

During an annual or interim reexamination, HACC may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, HACC may discover errors made by HACC. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in this policy or Chapters 13.

PART IV: NON-INTERIM REEXAMINATION TRANSACTIONS [Notice PIH 2023-27]

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations, but which HUD still requires the PHA to report to HUD via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12- month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

EXHIBIT 11-1: CALCULATING Income AT ANNUAL REEXAMINATION

Example 1: Calculating Annual Income at Annual Reexamination Using EIV

| | |
|---|-------------------------------|
| <p>Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 7 percent.</p> | |
| <p><u>Last reexamination – 3/1/2023 Annual Reexamination</u></p> | |
| <u>Ruby:</u> | <u>Georgia:</u> |
| Wages: \$30,000 | SSI: \$10,980 (\$915 monthly) |

The EIV report pulled on 12/15/2023

| | |
|---|--|
| <p>Ruby:</p> <p>Wages Total: \$33,651</p> <p>Quarter 3 of 2023: \$8,859 (City Public School)</p> <p>Quarter 2 of 2023: \$8,616 (City Public School)</p> <p>Quarter 1 of 2023: \$8,823 (City Public School)</p> <p>Quarter 4 of 2022: \$7,353 (City Public School)</p> | <p>Georgia:</p> <p>SSI Total: \$10,980</p> <p>2023 benefit \$915 monthly</p> |
|---|--|

| <u>Income Reported on Reexamination Application</u> | |
|---|---|
| Ruby: <u>Wages at City Public School: \$32,000</u> (switched jobs but no permanent change to amount) | Georgia: <u>SSI benefits: \$10,980 (no changes)</u> |
| <u>Calculating Ruby's wages:</u> Step 1: Determine prior annual income from EIV (i.e., Q4 2022 through Q3 of 2023: \$33,651). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies that the \$33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA will use \$33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income. | <u>Calculating Georgia's SSI benefit:</u> Step 1: Determine the prior annual income from EIV (i.e., \$915 x 12 months: \$10,980). Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination (in this case, there have been no interim reexaminations processed since the last annual reexamination). Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination: COLA: \$64.05 (\$915 x 0.07) New gross SSI benefit: \$11,748.60 (\$979.05 x 12 months) |
| If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy. | |
| <u>Summary of Annual Income (as reported on the HUD-50058)</u> | |
| Ruby (Head of Household): Other Wage: \$33,651 Myers Family Total Annual Income: \$45,399 | Georgia (Other Youth Under 18): SSI: \$11,748 |

**Example 2: Calculating Annual Income at Annual Reexamination Using EIV:
Family Disagrees with EIV**

Staff are processing Paul Hewson’s 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha’s Sweets to a part-time job at Viking Bakery. Following HUD’s EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha’s Sweets and decreased his anticipated annual income from \$28,000 to \$7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.

5/1/2023 Annual Reexamination

Wages: \$28,000

The EIV report pulled on 1/15/2024

Wages Total: \$18,271

Quarter 3 of 2023: \$2,500 (Viking Bakery)

Quarter 3 of 2023: \$796 (Sweet Tooth Candy Bar)

Quarter 2 of 2023: \$1,300 (Sasha’s Sweets)

Quarter 2 of 2023: \$584 (Larry’s Concessions)

Quarter 2 of 2023: \$2,401 (Viking Bakery)

Quarter 1 of 2023: \$6,500 (Sasha’s Sweets)

Quarter 4 of 2022: \$600 (Sasha’s Sweets)

SS/SSI: No history of benefits

Income Reported on Reexamination Application

Wages: \$0 (permanent change; no longer receiving)

Social Security: \$14,400 (\$1,200 monthly)

Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective 3/1/2024.

Calculating Wages and SS Benefit

Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: \$18,271)

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to \$7,500.

Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.

Process the annual reexamination effective 5/1/2024 using annual SS income of \$14,400 and \$0 wages.

Summary of Annual Income (as reported on the HUD-50058)

Paul (Head of Household): \$14,400 (SS)

Hewson Family Total Annual Income: \$14,400

Example 3: Calculating Annual Income at Annual Reexamination

Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha’s daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold. Samantha did not report any additional changes to the PHA.

Last reexamination – 11/1/2023 Annual Reexamination

Samantha:

Business income: \$28,000
 VA disability pension: \$12,000
 Child support: \$2,400

Fergus:

Wages: \$8,250
 Other non-wage income: \$3,000 (Go Fund Me online fundraiser)

The EIV report pulled on 9/16/2024

Samantha:

Wages Total: \$0 (no wage data reported since Q1 2023)

Fergus:

Wages Total: \$8,600
 Quarter 1 of 2024: \$2,100 (Ian’s Fish ‘n’ Chips)
 Quarter 1 of 2024: \$500 (Claire’s Healthcare Supplies)
 Quarter 4 of 2023: \$1,000 (Claire’s Healthcare Supplies)
 Quarter 3 of 2023: \$1,800 (The Onion Garden Shop)
 Quarter 2 of 2023: \$3,200 (Ivar’s Fish Haus)

Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA’s annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian’s Fish ‘n’ Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the 11/1/2024 annual reexamination.

Samantha:

Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change)

VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change)

Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change)

Fergus:

Wages: \$6,000

Calculating Samantha’s Net Business Income

Step 1: Determine prior annual net business income (i.e., \$28,000 on last HUD–50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

Calculating Samantha’s VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 (\$12,300 in this example).

Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., \$2,400 on the last HUD-50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 (\$1,200 in this example).

Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian's Fish 'n' Chips. The PHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the following:

- Resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and
- Verify he is no longer employed at Claire's Healthcare Supplies in accordance with HUD's verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The PHA verified Fergus was no longer employed at Claire's Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 (\$9,360 in this example).

Calculating Fergus' Other Non-Wage Income

Step 1: Determine prior annual income from other non-wage income (i.e., \$3,000 on the last HUD- 50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD-50058. The PHA must verify and adjust to reflect current non-wage income. The PHA must verify no income was received through a "Go Fund Me" online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn't solicited funds online and doesn't plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of \$0 determined in Step 3.

Summary of Annual Income (as reported on the HUD-50058)

Samantha (Head of Household):

Own business: \$18,000

Pension: \$12,300

Child support: \$1,200

Fergus (Co-head):

Wages: \$9,360

Poole Family Total Annual Income: \$40,860

Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify mandatory and optional grounds for which a PHA can terminate a family's assistance. They also specify the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter describes the policies that govern mandatory and optional 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 describes the various circumstances under which assistance under the program can be terminated by the family or by the PHA.

Part II: Approach to Termination of Assistance. This part describes the policies and the process that the PHA will use in evaluating decisions on whether to terminate assistance due to actions or inactions of the family where termination is an option. It specifies the alternatives that HACC may consider in lieu of termination, the criteria HACC will use when deciding what action to take and the steps HACC must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part describes the HUD 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 HACC to terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income. HUD permits HACC to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program and terminate their HCV assistance at any time by notifying HACC.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by HACC is reduced to zero, the family's assistance terminates automatically 180 days after the last HAP payment.

HACC Policy

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify HACC of the change 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 HACC terminate housing assistance payments on behalf of the family at any time.

HACC Policy

To remain in good standing, the guidelines listed under family obligations Section 5-I.C. must be followed, the lease agreement with the owner must be adhered to, and the request to terminate assistance should be made in writing and signed by the head of household, spouse, or cohead. Before terminating the family's assistance, HACC will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires HACC to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b) (2), Pub.L. 109-162]

HACC 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. As discussed further in section 12-II.E, incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

HACC 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.

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, HACC 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, HACC 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 are 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)]

HACC must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim 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)]

HACC 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 HACC, 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 5.218(c), Notice PIH 2018-24]

HACC must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers 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 PHA 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.

HACC Policy

HACC 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)]

HACC 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.

Lifetime Registered Sex Offenders [Notice PIH 2012-28]

Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

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, HACC must 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 HACC 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(D)]

HUD requires HACC to establish policies that permit HACC to terminate assistance if HACC 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

Use of Illegal Drugs and Alcohol Abuse

HACC Policy

HACC 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.

HACC 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.

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

HACC 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.

A record or records of arrest will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, HACC 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, HACC 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.

HACC Policy

HACC 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.

HACC 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.

A record or records of arrest will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, HACC 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, HACC 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 HACC to terminate assistance under a number of other circumstances. It is left to the discretion of HACC whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12-II.E, the Violence against Women Act of 2013 explicitly prohibits PHAs from considering incidents of, or criminal activity directly related to, domestic violence, sexual assault, dating violence, sexual assault, stalking or human trafficking as reasons for terminating the assistance of a victim of such abuse.

HACC Policy

HACC **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency program.

HACC **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 HACC policies.

Any family member has been evicted from federally assisted housing in the last three years.

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 Section 8 or public housing assistance under the 1937 Act.

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 HACC for any HACC Program.

A family member has engaged in or threatened violent or abusive behavior toward HACC personnel.

Abusive or violent behavior towards HACC 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, HACC 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, HACC 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. HACC 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.

HACC Policy

Family absence means no member of the family is residing in the unit.

The family may be absent from the assisted unit for brief periods. For anticipated absences of more than 21 consecutive days, the family must notify the HACC, in writing, prior to the first day of the absence.

For family absences greater than 30 consecutive days, the family must obtain approval from HACC. Reasonable requests will not be denied. Generally, approval is reserved for medical reasons, e.g., hospitalization, determinable nursing home stays, to care for ill relatives, etc.

Assistance will terminate if a family absence exceeds the maximum period approved by HACC.

For documented and verifiable medical reasons requiring the family to be absent from the unit for more than 180 days, the family's assistance may be resumed if not more than one year has elapsed since the first day of the absence. This option is at the sole discretion of the HACC and will be considered on a case-by-case basis. A family in this circumstance will not have to go back on the wait list.

Individual members of a household who are or are expected to be absent from the assisted unit for 180 consecutive days or less are considered temporarily absent and continue 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. These absences must be reported by the family as soon as anticipated or known. Exceptions to this general policy are discussed below.

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.F.

Insufficient Funding [24 CFR 982.454]

HACC may terminate HAP contracts if HACC determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

HACC Policy

HACC will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If HACC determines there is a shortage of funding, prior to terminating any HAP contracts, HACC will determine if any other actions can be taken to reduce program costs.

In the event that the PHA decides to stop issuing vouchers as a result of a funding shortfall, and the PHA is not assisting the required number of special purpose vouchers (NED families, HUD-Veterans Affairs Supportive Housing (VASH) families, and family unification program (FUP) families), when the PHA resumes issuing vouchers, the PHA will issue vouchers first to the special purpose voucher families on its waiting list until it has reached the required number of special purpose vouchers, when applicable.

If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, HACC will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, HACC will inform the local HUD field office. HACC will terminate the minimum number needed in order to reduce HAP costs to a level within HACC's annual budget authority.

If HACC must terminate HAP contracts due to insufficient funding, HACC will do so in accordance with the following criteria and instructions:

- Families comprising the required number of special purpose vouchers, including nonelderly disabled (NED), HUD-Veteran's Affairs Supportive Housing (HUD-VASH), and family unification program (FUP) will be the last to be terminated.
- Households that include either a disabled or elderly family member will be protected from termination of assistance;
- Households who have a signed FSS Contract of Participation, and who are active in the FSS Program, will be protected from termination of assistance;
- Any single non-elderly/non-disabled household being assisted on the program will be the first households terminated;
- Households porting outside the jurisdiction will be the second households terminated and they will be terminated on a "first-on, first-off" basis (i.e. starting with families that have been on the program the longest) up to the number of terminations determined by the PHA to alleviate the insufficient funding issue. The PHA will notify the receiving PHA and the household of the ability to be absorbed to avoid termination.
- If additional terminations are needed, the remaining participant families will be terminated based on a "FIRST-ON, FIRST-OFF" basis (i.e. starting with families that have been on the program the longest) up to the number of terminations determined by the PHA to alleviate the insufficient funding issue.

A Local Preference will then be given to the families which will assist them with re-entering the program once the insufficient funding issue has been resolved.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

HACC is required by regulation to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, the regulations give HACC the authority to either terminate the family's assistance or to take another action. This part discusses the various actions HACC may choose to take when it has discretion, and outlines the criteria HACC will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notification to the family of the PHA's intent to terminate assistance.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

Termination of assistance for a participant may include any or all of the following:

- Terminating housing assistance payments under a current HAP contract,

- Refusing or to enter into a new HAP contract or approve a lease, 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, HACC 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)].

HACC 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 HACC request.

Repayment of Family Debts

HACC Policy

If a family owes amounts to HACC, as a condition of continued assistance, HACC will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from HACC 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 HACC 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)].

HACC Policy

HACC 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.

Use of Criminal Conviction Records after Admission [24 CFR 5.903]

The regulation at 24 CFR 5.903 governs a PHA’s access to and use of criminal conviction records obtained from a “law enforcement agency” such as the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records. While the regulatory listing of permitted uses for these records includes PHA screening of applicants for admission to the HCV program, it specifically excludes the use of records for lease enforcement and eviction of HCV participants and excludes by omission a

PHA's use of records to terminate assistance for participants. While a PHA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, PHAs may not use records for this purpose. The limitations, however, do not apply to criminal conviction information searches from non-federal sources (i.e., sources other than the "law enforcement agencies" defined in 24 CFR 5.902(b)). **There is no prohibition that bars a PHA from using non-federal sources to conduct criminal background checks of program participants.**

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

HACC is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

HACC Policy

HACC will consider the following facts and circumstances when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property

- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act

- 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, sexual assault, stalking or human trafficking.

- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future

- While a record or records of arrest will not be used as the basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:

 - Any statements made by witnesses or the participant not included in the police report

 - Whether criminal charges were filed

 - Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal

 - Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property

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.

HACC 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, HACC's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

HACC Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, HACC will determine whether the behavior is related to the disability. If so, upon the family's request, HACC will determine whether alternative measures are appropriate as a reasonable accommodation. HACC 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. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING

This section describes the protections against termination of assistance that the Violence against Women Act (VAWA) provides for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking. For general VAWA requirements, key VAWA definitions, and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan.

VAWA Protections against Termination

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault or stalking. (*Note:* The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program, as do the limitations discussed under the next heading.)

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

First, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit [see 24 CFR 982.354(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [see 24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, sexual assault, stalking, or human trafficking [see 24 CFR 5.2005(c)(2)].

Fourth, it gives PHAs the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

PHAs and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].

Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault, stalking or human trafficking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a PHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

HACC Policy

In determining whether a participant who is a victim of domestic violence, dating violence, sexual assault, stalking or human trafficking is an actual and imminent threat to other tenants or those employed at or providing service to a property, HACC 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, stalking or human trafficking

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 HACC'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.

Documentation of Abuse [24 CFR 5.2007]

HACC 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, sexual assault, stalking or human trafficking, HACC 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.

HACC may accept any of the following forms of documentation:

- A signed HUD 5382, Certification of Domestic Violence, Dating Violence, or Stalking.
- 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.

HACC 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 HACC's written request or must request an extension within that time frame. HACC may, at its discretion, extend the deadline for 10 business days.

If the individual provides the requested documentation within 14 business days, or any HACC-approved extension, HACC 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 HACC-approved extension, HACC 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 HACC 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 HACC 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 HACC must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [FR Notice 3/16/07].

HACC Policy

HACC will terminate assistance to a family member if HACC 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, nonculpable family members.

In making its decision, HACC will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to HACC by the victim in accordance with this section. HACC will also consider the factors in section 12-II.D. Upon such consideration, HACC may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If HACC 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. The culpable family member may not be readmitted to the household.

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

All information provided to HACC 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.

HACC Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, HACC will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

12-II.F. TERMINATION NOTICE

HUD regulations require PHAs to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD-52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

HACC Policy

Whenever a family's assistance will be terminated, the PHA will send a written notice of termination to the family and to the owner. The PHA will also send a form HUD-5382 to the family with the termination notice. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other PHA policies, or the circumstances surrounding the termination require.

When the PHA notifies an owner that a family's assistance will be terminated, the PHA will, if appropriate, advise the owner of his/her right to offer the family a separate, unassisted lease.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the PHA sends to the family must meet the additional HUD and PHA notice requirements discussed in section 16-III.C of this plan. VAWA expands notification requirements to require PHAs to provide notice of VAWA rights and the HUD 5382 form when a PHA terminates a household's housing benefits.

HACC Policy

Whenever the PHA decides to terminate a family's assistance because of the family's action or failure to act, the PHA will include in its termination notice the VAWA information described in section 16-IX.C of this plan a form HUD 5382. HACC will request that a family member wishing to claim protection under VAWA notify HACC within 14 business days and may complete a HUD-5382 detailing their situation.

Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, the PHA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance [24 CFR 982.553(d)].

If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed.

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; HACC is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310 and Form HUD-52641-A, Tenancy Addendum, Pub.L. 109-162]

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, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking or human trafficking and the victim is protected from eviction by the Violence against Women Act of 2013 (see section 12-II.E) This includes failure to pay rent or other amounts due under the lease. However, HACC'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.

However, in the case of criminal activity directly related to domestic violence, dating violence, sexual assault, stalking or human trafficking, if the tenant or an affiliated individual is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy (see section 12-II.E).

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 the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, stalking or human trafficking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, stalking, or human trafficking.

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.

If a property is subject to foreclosure, during the term of the lease, the new owner of the property does not have good cause to terminate the tenant’s lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled

to a 90-day notice to vacate. See Section 13-II.G for a discussion of PHA policies relating to units in foreclosure.

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 HACC a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give HACC a copy of any eviction notice (see Chapter 5).

HACC Policy

If the eviction action is finalized in court, the owner must provide HACC 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, sexual assault, stalking or human trafficking is limited by the Violence against Women Act (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (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 HACC has no other grounds for termination of assistance, HACC 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 HACC 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 HACC 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.

HACC Policy

Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow HACC 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.

HACC Policy

HACC 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, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

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 criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, stalking or human trafficking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

- The family must notify HACC and the owner before moving out of the unit or terminating the lease.

HACC Policy

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

- The family must promptly give HACC 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 HACC. The family must promptly notify HACC in writing of the birth, adoption, or court-awarded custody of a child. The family must request HACC approval to add any other family member as an occupant of the unit.

HACC Policy

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

- The family must promptly notify HACC in writing if any family member no longer lives in the unit.

HACC Policy

Promptly is defined as within 7 days. Therefore, a family must notify HACC in writing within 7 days of any family member no longer living in the unit.

- If HACC has given approval, a foster child or a live-in aide may reside in the unit. HACC has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when HACC 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.

HACC 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 HACC to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify HACC when the family is absent from the unit.

HACC 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 21 consecutive days. Written notice must be provided to HACC 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 HACC policies related to drug-related and violent criminal activity.

HACC Policy

This applies to any member of the household, a guest, or any other person on the property under the tenant's control. Other person under the tenant's control is defined as a person that is or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate (legal) commercial purposes is not under the tenant's control.

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 HACC 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 HACC 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 major 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.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in HACC’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 HACC and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including HACC 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]; HCV Landlord Strategy Guidebook for PHAs]

Recruitment

PHAs are responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in HACC’s jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for HACC to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in HACC’s jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, HACC must identify and recruit new owners to participate in the program.

If the PHA will be conducting outreach events, the PHA must ensure that notices and communications during outreach events are provided in a manner that is effective for persons with hearing, visual, and other communications-related disabilities. PHAs must also take reasonable steps to ensure meaningful access to programs to persons with limited English proficiency.

HACC Policy

HACC will conduct owner outreach to ensure that owners are familiar with the program and its advantages. HACC will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies may 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, apartment associations, industry investor groups, and real estate brokers associations
- To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program

Outreach strategies will be monitored for effectiveness and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, HACC must also provide the kind of customer service that will encourage participating owners to remain active in the program.

HACC Policy

All HACC 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 HACC will provide owners with information that explains the program, including HUD and HACC policies and procedures. HACC will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated HACC contact person.
- Coordinating inspection and leasing activities between HACC, 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 through a landlord handbook, including answers to frequently asked questions.
- Contacting owners via emails or texts to disseminate information.

Additional services may be undertaken on an as-needed basis, and as resources permit.

13-I.B. BASIC HCV PROGRAM REQUIREMENTS

HUD requires HACC to assist families in their housing search by providing the family with a list of landlords or other parties known to HACC who may be willing to lease a unit to the family, or to help the family find a unit. Although HACC cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to HACC 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)(11)].

HACC 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 HACC. HACC will maintain a listing of such owners and keep updated lists in the lobby. Since Section 8 Housing Choice Voucher is a protected “Source of Income” in the State of Oregon, all landlords must be willing to accept applications from Voucher holders. Voucher holders can rely on the mainstream online resources for available units. HACC has a lobby computer and assists clients with searches as needed.

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 unassisted tenant. HACC 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 (RTA), 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 HACC, 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 RTA is a copy of the owner’s proposed dwelling lease (if applicable), 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 requirements for the approval of an assisted tenancy.

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. 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 982.305(a)]. HACC will inspect the owner’s dwelling unit at least biennially to ensure that the unit continues to meet HQS requirements. See chapter 8 for a discussion of the HQS standards and policies for HQS inspections at initial lease-up and throughout the family’s tenancy.

HACC must determine that the proposed rent for 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 the rent 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, if the gross rent exceeds the applicable payment standard, HACC must ensure that the family share 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. The HUD Tenancy Addendum includes the HUD requirements governing the tenancy and must be added word-for-word to the owner's lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

HACC and the owner must execute a Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HUD requirements for execution of the HAP contract.

13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Compliance with 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 HACC information required under the HAP contract
- Collecting the security deposit, the tenant rent, and any charges for unit damage by the family.
- Enforcing tenant obligations under the dwelling lease
- Paying for utilities and services that are not the responsibility of the family as specified in the lease Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203]
- Complying with the Violence against Women Act (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family [see 24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); 24 CFR 982.452(b)(1); and FR Notice 1/4/23]

13-I.D. OWNER QUALIFICATIONS

HACC does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where HACC 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)]

HACC must not approve the assisted tenancy if HACC 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 HACC 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]

HACC must not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. HACC 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]

HACC 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 HACC (except a participant commissioner)
- Any employee of HACC, or any contractor, subcontractor or agent of HACC, 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. HACC must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by HACC must include the following [HCV Guidebook pp.11-2 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, HACC, 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 HACC or assistance under the HCV program for an eligible HACC 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 HACC, description of the nature of the investment, including disclosure/divestiture plans.

Where HACC has requested a conflict of interest waiver, HACC may not execute the HAP contract until HUD has made a decision on the waiver request.

HACC Policy

In considering whether to request a conflict of interest waiver from HUD, HACC will consider certain factors such as consistency of the waiver 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 HACC to disapprove a request for tenancy for various actions and inactions of the owner.

If HACC 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].

HACC Policy

HACC will refuse to approve a request for tenancy if HACC 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 HACC, 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, HACC 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, HACC may, on a case-by-case basis, choose to approve an owner.

Legal Ownership of Unit

The following represents HACC policy on legal ownership of a dwelling unit to be assisted under the HCV program.

HACC Policy

HACC will only enter into a contractual relationship with the legal owner of a qualified unit. If a question exists as to rightful ownership, no tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for the 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 HACC.

The owner must cooperate with HACC and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with HACC.

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 HACC 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 HACC's obligations. Under the HAP contract, HACC agrees to make housing assistance payments to the owner on behalf of the family approved by the PHA to occupy the 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 use their assistance to lease the space for the manufactured home. See chapter 15 for a discussion of any special housing types included in HACC's HCV program.

When HACC has determined that the unit meets program requirements and the tenancy is approvable, HACC 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** the names of the tenant and all household members, the address of the contract unit, start and end dates of initial lease term, the amount of initial monthly rent to owner, the amount of initial housing assistance payment, the utilities and appliances to be supplied by owner and tenant, and the signatures of the HACC representative and owner [HCV Guidebook, pp 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, HACC 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. HACC policy on the amount of security deposit an owner may collect is found in Chapter 9.

HACC also has the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by HACC is deemed received by the owner (e.g., upon mailing by HACC or actual receipt by the owner).

HACC Policy

HACC has adopted a policy that defines when the housing assistance payment by HACC is deemed received by the owner. HACC requires all landlords not participating in Direct Deposit to pick up checks at the Administrative Building located at 13930 S. Gain Street, Oregon City, OR 97045. Therefore, failure of a landlord to pick up a check in a timely fashion shall not constitute a late payment. The housing assistance payment is deemed received by the owner upon issuance of the check by HACC or when direct deposit has been completed. Therefore, a modification to the HAP contract has been made to add this language.

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
- PHA Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- PHA 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 HACC. 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, HACC 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. HACC 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 HACC is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, and the HAP payment is equal to the rent to owner as specified in the lease.

The family is not responsible for payment of the HAP payment, and HACC 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 rent to 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 HACC, the excess amount must be returned immediately. If HACC determines that the owner is not entitled to all or a portion of the HAP, HACC 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 HACC, 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)]

HACC 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 late penalties if HACC fails to make the HAP payment on time.

HACC Policy

HACC has adopted a policy that defines when the housing assistance payment by HACC is deemed received by the owner. HACC requires all landlords not participating in Direct Deposit to pick up checks at the Administrative Building located at 13930 S. Gain Street, Oregon City, OR 97045. Therefore, failure of a landlord to pick up a check in a timely fashion shall not constitute a late payment. The housing assistance payment is deemed received by the owner upon issuance of the check by HACC or when direct deposit has been completed.

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.

HACC is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond HACC's control. In addition, late payment penalties are not required if HACC 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)]

HACC 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, HACC 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.

HACC Policy

The owner must inform HACC when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform HACC when the owner has obtained a court judgment or other process allowing the owner to evict the tenant and provide HACC 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, HACC 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 HACC of the date when the family actually moves from the unit or the family is physically evicted from the unit.

Tenant-based leases may be terminated without cause at the end of the initial lease term and at the end of any term extension. Except as required by State or local law, an owner may terminate tenancy without cause at the end of the initial lease term, or at the end of a successive definite term. For instance, if the lease provides for automatic renewal on a month-to-month basis, the owner may terminate tenancy without cause at the end of each month. During the course of each month, however, the owner may only terminate the tenancy if the owner has cause under the grounds for termination of tenancy stated in the lease addendum. (Notice PIH 98-64, HUD's 1999 Appropriations Act - Section 8 Tenant-Based Assistance Program Statutory Provisions)

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 regulation 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 HACC determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

HACC 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 of the HAP contract. HACC may also obtain additional relief by judicial order or action.

HACC 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. HACC must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

HACC Policy

Before HACC invokes a remedy against an owner, HACC will evaluate all information and documents available to determine if the contract has been breached.

If relevant, HACC 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, HACC 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 982.451(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;
- HACC terminates the HAP contract;

- HACC 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 HACC made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by HACC;
- The Annual Contributions Contract (ACC) between HACC and HUD expires
- HACC elects to terminate the HAP contract.

HACC Policy

HACC 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 982.403] – 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 HACC terminates the HAP contract, HACC 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].

HACC Policy

Generally, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives written notice to the owner.

The PHA cannot make any HAP payment for any month after the month the family vacates the unit.

The owner is not entitled to any housing assistance payment after this period and must return to the PHA 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 HACC.

An owner under a HAP contract must notify HACC in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by HACC.

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 HACC finds acceptable. The new owner must provide HACC with a copy of the executed agreement.

HACC 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.

HACC 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.

HACC will inform the current owner in writing if the assignment may not take place.

The new owner must provide a written certification to HACC that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed, if requested by HACC;

- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification;

- The effective date of the HAP contract assignment;

- A written agreement to comply with the terms of the HAP contract; and

- A certification 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, HACC 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, HACC will process the leasing in accordance with the policies in chapter 9.

13-II.G. FORECLOSURE [Notice PIH 2010-49]

Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA). During the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. Further, the new owner assumes interest in the lease between the prior owner and the tenant and to the HAP contract.

Any state or local law that provides longer time periods or other additional protections for tenants also applies.

HACC Policy

If a property is in foreclosure, HACC will make all reasonable efforts to determine the status of the foreclosure and ownership of the property and will continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract.

HACC will attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. This will include a request for owner information, including a tax identification number and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is still effective by operation of law.

HACC will inform the tenant that they must continue to pay rent in accordance with the lease, and if the new owner refuses to accept payment or cannot be identified, the tenant should pay rent into escrow. Failure to pay rent may constitute an independent ground for eviction.

In the event that HACC is unable to make HAP payments to the new owner due to an action or inaction by the new owner that prevents such payments (e.g., rejection of payments or failure to maintain the property according to HQS), or due to an inability to identify the new owner, the PHA will either use the funds to pay:

The utilities that are the owner's responsibility after taking reasonable steps to notify the owner; except that if the unit has been or will be rendered uninhabitable due to termination or threat of termination of service, prior notice is not required. In the latter case, the PHA shall notify the owner within a reasonable time after making the utility payment; or

For the family's reasonable moving costs, including security deposit costs.

The PHA will also refer the tenant, as needed, to the local legal aid office in order to ensure adequate protection of the tenant's rights and enforcement of the successor in interest's performance under the HAP contract.

See Section 12-III.B for a discussion of foreclosure as it pertains to owner termination of tenancy.

Chapter 14

PROGRAM INTEGRITY

INTRODUCTION

HACC is committed to ensuring that subsidy funds made available to HACC are spent in accordance with HUD requirements.

This chapter covers HUD and HACC 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 HACC policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures HACC 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 detecting program abuse. PHAs are required to use the EIV system at reexamination 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.

HACC Policy

To ensure that HACC’s HCV program is administered according to the highest ethical and legal standards, HACC will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

HACC will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

HACC’s mailed annual packets will explain the contents of all HUD- and HACC-required forms requesting family member signatures.

At every regular reexamination, PHA forms will explain any changes in HUD regulations or PHA policy that affect program participants.

The PHA will provide owners with ongoing information about the program, with an emphasis on actions and situations to avoid.

HACC will provide each HACC employee with the necessary training on program rules and the organization's standards of conduct and ethics.

The PHA provides each applicant and participant with a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12 at Orientation.

For the 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, HACC 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 HACC 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).

HACC Policy

In addition to the SEMAP quality control requirements, HACC will employ a variety of methods to detect errors and program abuse.

HACC routinely will use HUD and other non-HUD sources of up-front income verification. This includes The Work Number and any other private or public databases available to the PHA.

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.

HACC 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 HACC activities and notifies HACC of errors and potential cases of program abuse.

HACC Policy

HACC 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 HACC's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

HACC Policy

HACC will encourage staff, program participants, and the public to report possible program abuse.

14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

When HACC Will Investigate

HACC Policy

HACC 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 HACC to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

HACC will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

Consent to Release of Information [24 CFR 982.516]

HACC may investigate possible instances of error or abuse using all available HACC and public records. If necessary, HACC will require HCV families to sign consent forms for the release of additional information.

HACC Policy

At its discretion HACC, will inform and work with other agencies investigating participants being investigated for fraud or abuse involving federal funds including but not limited to working with the Department of Human Services and Child Protective Services.

Analysis and Findings

HACC Policy

HACC 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 HACC will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed HACC, and (3) what corrective measures or penalties will be assessed.

Consideration of Remedies

All errors and instances of program abuse must be corrected prospectively. Whether HACC will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

HACC Policy

In the case of family-caused errors or program abuse, HACC 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, HACC 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

HACC Policy

HACC 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 HACC 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, HACC must promptly correct the HAP, family share, and any utility reimbursement prospectively.

HACC Policy

Increases in the family share will be implemented on the first of the month following a written 30-day notice.

Any decreases in family share will become effective on the first of the month following the discovery of the error.

Reimbursement

Whether the family or owner is required to reimburse HACC or HACC 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 HACC to use incorrect information provided by a third party.

Family Reimbursement to HACC [HCV GB pp. 22-12 to 22-13]

HACC Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy. HACC 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, HACC will terminate the family's assistance in accordance with the policies in Chapter 12.

If misrepresentation or omission by the family has caused them to pay less than the required rent, depending on the circumstances, HACC may terminate the family's housing assistance. The family will be eligible to a hearing prior to any termination of their voucher.

HACC Reimbursement to Family [HCV GB p. 22-12]

HACC Policy

HACC 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 HACC [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)].

HACC Policy

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by HACC for rent, security deposit, and additional services.

Subleasing to guests or others or requiring live-in-aides to assist with rent payments.

Offering bribes or illegal gratuities to HACC Board of Commissioners, employees, contractors, or other HACC 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 HACC 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

HACC 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 HACC may, at its discretion, impose any of the following remedies.

- HACC may require the family to repay excess subsidy amounts paid by HACC, as described earlier in this section.
- HACC 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).
- HACC may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- HACC 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 HACC

In all cases of overpayment of subsidy caused by the owner, the owner must repay to HACC any excess subsidy received. HACC may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, HACC may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

HACC Policy

In cases where the owner has received excess subsidy, HACC 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 HACC [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:

HACC Policy

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by HACC
- 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 HACC Board of Commissioners, employees, contractors, or other HACC representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to HACC
- Residing in the unit with an assisted family
- Committing sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 2
- Retaliating against any applicant or participant reporting/alleging sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 2

Remedies and Penalties

When HACC determines that the owner has committed program abuse, HACC 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 HACC programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. HACC-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of HACC staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a HACC staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in HACC personnel policy.

HACC-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.

De Minimis Errors [24 CFR 5.609(c)(4)]

The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

HACC Policy

The PHA will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

Prohibited Activities

HACC Policy

Any of the following will be considered evidence of program abuse by HACC 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 HACC

- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of HACC 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

HACC Policy

When HACC determines that program abuse by an owner, family, or HACC staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, HACC may 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

HACC may retain a portion of program fraud losses that HACC recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

HACC 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 HACC 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 HACC 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 HACC related to the collection, these costs must be deducted from the amount retained by HACC.

Chapter 15

SPECIAL HOUSING TYPES

[24 CFR 982 Subpart M]

INTRODUCTION

HACC may permit a family to use any of the special housing types discussed in this chapter. However, HACC is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that HACC must permit use of any special housing type if needed as a reasonable accommodation for a person with a disability. HACC 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.

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].

HACC Policy

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.

Families will be able to utilize the following special housing types only:

- HACC will permit shared housing in its Housing Choice Voucher program. At any time HACC may change its decision to include shared housing in its program. If at a later date it is determined to not continue the shared housing program, any outstanding shared housing contracts which have been executed will continue to be honored.
- Eligible elderly and/or disabled families may use congregate housing. Eligible elderly or disabled families who require a planned program of continual supportive services may use independent group residences.
- SRO housing may be used only if:
 - (i) The property is located in an area in which there is a significant demand for SRO units, as determined by the HUD field office;
 - (ii) The PHA and the unit of general local government in which the property is located approve the use of SRO units for such purpose;
 - (iii) The unit of general local government and the local PHA certify to HUD that the property meets applicable local health and safety standards for SRO housing;
- A voucher holder who owns a manufactured home may receive assistance with the manufactured home space rent.

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. If SRO units become available in the future, this policy will apply.

15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION

The payment standard for SRO housing is 75 percent of the zero-bedroom payment standard amount on HACC'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 HACC, a family member or live-in aide may reside with the elderly person or person with disabilities. HACC 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), HACC must use the payment standard for a zero-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), HACC must use the one-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

[24 CFR 982.610 through 982.614 and HCV GB p. 7-4]

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 HACC, a live-in aide may live in the group home with a person with disabilities. HACC 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. HACC does not currently allow use of HCV assistance in group homes.

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 zero- or one-bedroom, depending on HACC'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 prorata share of the payment standard for the group home size. The pro

rata 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 number of persons in the assisted household equals one assisted person plus any PHA-approved live-in aide.

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 pro rata 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 pro rata portion of the reasonable rent for the group home. In determining reasonable rent, HACC 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 982.618; Form HUD-52641; Notice PIH 2021-05;
New HCV GB, *Special Housing Types*, p. 11]

15-IV.A. OVERVIEW

Families in markets with tight rental conditions or with a prevalence of single-family housing may determine a shared housing living arrangement to be a useful way to secure affordable housing. PHAs offering shared housing as a housing solution may also experience some reduction in the average per-unit-cost (PUC) paid on behalf of assisted families.

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The unit may be a house or an apartment. 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.

Shared housing may be offered in a number of ways, including for-profit co-living (such as a boarding house, single bedroom with common living room/kitchen/dining room) run by a private company [Notice PIH 2021-05].

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 shared housing is offered as a housing option, HUD encourages PHAs to consider ways in which the families may be assisted in finding shared housing, including for-profit shared housing matching (such as roommates or single-family homes) and online sites that charge a fee for their matching services, or nonprofit shared housing matching services. HUD further encourages PHAs to include information about this housing possibility in the family's voucher briefing.

HACC Policy

The PHA will provide information to families regarding the shared housing option, including a listing to families of any known for-profit or nonprofit shared housing matching services in the community at briefing, and upon request. Families will be advised they can conduct their own internet search. Families will be cautioned to not enter into any rental agreement or pay any deposit or rental payment until the tenancy is approved by the PHA.

PHAs should be aware of potential local legal barriers to HCV participants using shared housing, which can create additional obstacles for shared housing:

- Municipalities may have occupancy limits for the number of unrelated persons who may share a housing unit.

- Local zoning codes for single family housing may restrict occupancy in certain areas to households whose family members are related by blood.

PHAs should work with local jurisdictions to find solutions that encourage affordable housing and are consistent with the Fair Housing Act, Title VI, and other federal, state, and local fair housing laws. PHAs should inform HUD if they encounter barriers to shared housing that may conflict with fair housing laws.

HACC Policy

The PHA will work with local jurisdictions as necessary to identify solutions consistent with fair housing laws and will inform HUD if the PHA encounters barriers to shared housing that conflict with fair housing laws.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Shared housing.”

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 (voucher size) or the pro rata share of the payment standard for the shared housing unit size.

The pro rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private, non-shared space by the total number of bedrooms in the unit.

Example: Family holds a two-bedroom voucher.

Shared housing unit size: bedrooms available to assisted family = 2

Total bedrooms in the unit: 3

2 Bedrooms for assisted family

÷ 3 Bedrooms in the unit

.667 pro rata share

2 BR payment standard: \$1200

3 BR payment standard: \$1695 \$1695 x .667 (pro rata share) = \$1131 \$1131 is lower than the \$1200 payment standard for the 2 BR family unit size \$1131 is the payment standard used to calculate the HAP

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 pro rata share of the utility allowance for the shared housing unit.

Example: A family holds a 2-bedroom voucher. The family decides to occupy 3 out of 4 bedrooms available in the unit.

The utility allowance for a 4-bedroom unit equals \$200

The utility allowance for a 2-bedroom unit equals \$100

The pro rata share of the utility allowance is \$150 (3/4 of \$200)

The PHA will use the 2-bedroom utility allowance of \$100.

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 PHA may consider whether sanitary and food preparation areas are private or shared.

15-IV.C. HOUSING QUALITY STANDARDS

HACC 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 zero-bedroom or one-bedroom unit may not be used for shared housing.

PART V: COOPERATIVE HOUSING

[24 CFR 982.619; New HCV GB, *Special Housing Types*, p. 14]

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.” The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. It 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.

The occupancy agreement or lease and other appropriate documents must provide that the monthly carrying charge is subject to Section 8 limitations on rent to owner, and the rent must be reasonable as compared to comparable unassisted units.

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Cooperative housing.”

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 gross rent (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. The PHA remedies described in 24 CFR 982.404 do not apply. Rather, if the unit and premises are not maintained in accordance with HQS, the PHA may exercise all available remedies regardless of whether the family or cooperative is responsible for the breach of HQS.

No housing assistance payment can be made unless unit meets HQS and the defect is corrected within the period as specified by the PHA and the PHA verifies correction (see Chapter 8).

In addition to regular breaches of HQS, breaches of HQS by the family include failure to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement [HCV GB].

PART VI: MANUFACTURED HOMES

[24 CFR 982.620 through 982.624; FR Notice 1/18/17; New HCV GB,
Special Housing Types, p. 15;]

15-VI.A. OVERVIEW

A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in three 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) A family can purchase a manufactured home under the Housing Choice Voucher Homeownership program.
- (3) 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 as well as certain other housing expenses. PHAs may, but are not required to, provide assistance for such families.

15-VI.B. SPECIAL REQUIREMENTS 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 designated HAP Contract (form HUD-52642) and designated Tenancy Addendum (form HUD 52642-A) for this special housing type.

15-VI.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION [FR Notice 1/18/17]

Payment Standards

The PHA payment standard for manufactured homes is determined in accordance with 24 CFR 982.505 and is the payment standard used for the PHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

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 hook-up 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.

If the amount of the monthly assistance payment for a family exceeds the monthly rent for the manufactured home space (including the owner's monthly management and maintenance charges), the PHA may pay the remainder to the family, lender, or utility company.

Space Rent

The rent for the manufactured home space (including other eligible housing expenses) is the total of:

- The rent charged for the manufactured home space;
- Owner maintenance and management charges for the space;
- The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- The applicable allowance for tenant-paid unities.

Amortization Costs

The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

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 manufactured home space rent (including other eligible housing expenses) minus the TTP.

Rent Reasonableness

Initially, and at least 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 housing assistance payment, the owner of the manufactured home space certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the same manufactured home park or elsewhere.

If requested by the PHA, the owner must give the PHA information on rents charged by the owner for other manufactured home spaces.

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]

HACC does not operate a Homeownership Program.

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 HACC's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what 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 HACC. This part describes policies for recovery of monies that HACC has overpaid on behalf of families, or to owners, and describes the circumstances under which HACC 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 what the SEMAP scores represent, how they are established, and how those scores affect HACC.

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 HACC will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes HACC's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention 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 HACC'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 IX: Violence against Women Act (VAWA): Notification, Documentation, And Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking; and maintaining the confidentiality of information obtained from victims.

Part X: Family Self Sufficiency Program.

PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The PHA will maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. HUD appropriations acts beginning with FFY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities. Notice PIH 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities. Administrative fees that remain in the UNP account from funding provided prior to 2004 may be used for “other housing purposes permitted by state and local law,” in accordance with 24 CFR 982.155(b)(1).

If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNP Account and may direct the PHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNP account without specific approval.

HACC Policy

Expenditures from the UNP account will be made in accordance with all applicable federal requirements. Expenditures will not exceed \$150,000 per occurrence without the prior approval of HACC’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 HACC to adapt the program to local conditions. This part discusses how HACC 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).

HACC Policy

Copies of the payment standard and utility allowance schedules are available for review in HACC’s offices during normal business hours and on HACC's website at: <https://www.clackamas.us/housingauthority> 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.

HACC 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.

Establishing and updating the PHA passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-I.G.).

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 HACC 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.

HACC must establish a payment standard schedule that establishes payment standard amounts for each FMR area within HACC's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, HACC 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, HACC 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, HACC must update its payment standards if the standards are no longer within the basic range [24 CFR 982.503(b)]. HUD may require HACC to make further adjustments if it determines that rent burdens for assisted families in HACC's jurisdiction are unacceptably high 24 CFR 982.503(g)].

HACC Policy

HACC will review the appropriateness of the payment standards on an annual basis when the new FMR is published and at other times as determined necessary. In addition to ensuring the payment standards are always within the "basic range" HACC will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

Funding Availability: HACC 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. HACC 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, HACC will consider increasing the payment standard. In evaluating rent burdens, HACC will not include families renting a larger unit than their family unit size.

Quality of Units Selected: HACC may 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: HACC 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: HACC 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: HACC 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.

HACC may establish multiple payment standards by area to encourage lease up in low poverty census tracts. Area payment standards may need to apply for exception payment standards if needed to ensure the success of deconcentrating poverty.

If HACC has already processed reexaminations that will be effective on or after the effective date of the change to the payment standards, HACC will not make retroactive adjustments to any such reexaminations. HACC will only be responsible for applying the payment standard known and published at the time of completing the annual examination or interim.

Exception Payment Standards [24 CFR 982.503(c)(5), Notice PIH 2018-01]

A non-SAFMR PHA may establish an exception payment standard for a zip code area of up to and including 110 percent of the SAFMR determined by HUD for that zip code area. Regardless of the level of the exception payment standard compared to the metropolitan area FMRs (MAFMRs), the PHA must send an email to SAFMRs@hud.gov to notify HUD that it has adopted an exception payment standard based on the SAFMR. A PHA that adopts an exception payment standard pursuant to this authority must apply it to the entire ZIP code area, for both its HCV, and if applicable, its PBV program. For the PBV program, this means that the rent to owner may not exceed the new exception payment standard amount, provided the rent is still reasonable. A PHA that adopts an exception payment standard area must revise its briefing materials to make families aware of the exception payment standard and the area that it covers.

Voluntary Use of Small Area FMRs [24 CFR 982.503, Notice PIH 2018-01]

PHAs that administer vouchers in a metropolitan area where the adoption of SAFMRs is not required may request approval from HUD to voluntarily adopt SAFMRs. SAFMRs may be voluntarily adopted for one or more zip code areas.

HACC Policy

HACC will not voluntarily adopt the use of SAFMRs.

Unit-by-Unit Exceptions [24 CFR 982.503(b), 24 CFR 982.505(d), Notice PIH 2010-26]

Unit-by-unit exceptions to HACC'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 HACC'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 [24 CFR 982.503(b)]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR.

HACC Policy

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, HACC 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, HACC may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows HACC 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, HACC 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;
- HACC had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- HACC 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, HACC may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of HACC's jurisdiction within the FMR area.

Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]

HACC 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 HACC-established utility allowance schedule is used in determining family share and HACC subsidy. HACC 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, HACC 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, HACC 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 HACC 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.

HACC Policy

Due to the Housing Authority's mild climate, the majority of housing units in HACC's jurisdiction do not include central air-conditioning. Therefore, HACC does not include an allowance for air-conditioning in its utility allowance schedule.

Reasonable Accommodation

HCV program regulations require HACC to approve a utility allowance amount higher than shown on HACC's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Further, the PHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA with an explanation of the need for the individual relief and information about the amount of additional allowance required [see HCV GB, p. 18-8].

PHAs should develop criteria for granting individual relief and to notify residents about the availability of individual relief, and also to notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company. Policies for granting exception utility allowances can be found in Section 6-III.D. of this plan.

Utility Allowance Revisions

HACC 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.

HACC 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

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section. The process for applicant appeals of PHA decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.” HACC is required to include informal review procedures for applicants, and informal hearing procedures for participants in their administrative plans [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. (FR Volume 60, No. 127 (3 July 1995): 36490).

Decisions Subject to Informal Review [24 CFR 982.554(a) and (c)]

HACC 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 HACC 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

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by HACC
- General policy issues or class grievances
- A determination of the family unit size under HACC subsidy standards
- A PHA determination not to approve an extension of a voucher term
- A HACC determination not to grant approval of the tenancy
- A HACC determination that the unit is not in compliance with the HQS
- A HACC determination that the unit is not in accordance with the HQS due to family size or composition

HACC Policy

HACC will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the PHA 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)]

HACC must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for HACC 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

HACC Policy

A request for an informal review must be made in writing and delivered to HACC 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 HACC's denial of assistance.

Except as provided in Section 3-III.G, HACC must schedule and send written notice of the informal review within 10 business days of the family's request.

If the informal review will be conducted remotely, at the time the PHA notifies the family of the informal review, the family will be informed:

Regarding the processes to conduct a remote informal review;

That, if needed, the PHA will provide technical assistance prior to and during the informal review; and

That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal review, the family may inform the PHA and the PHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal review, as appropriate.

Informal Review Procedures [24 CFR 982.554(b)]

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 HACC.

HACC Policy

The person conducting the review will make a recommendation to HACC, but HACC is responsible for making the final decision as to whether assistance should be granted or denied.

Remote Informal Reviews [Notice PIH 2020-32]

There is no requirement that informal reviews be conducted in-person and, as such, HUD allows PHAs to conduct all or a portion of their informal review remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal reviews, applicants may still request an in-person informal review, as applicable.

HACC Policy

HACC has the sole discretion to require that informal reviews be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, HACC will conduct an informal review remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have child care or transportation that would enable them to attend the informal

review, or if the applicant believes an in-person informal review would create an undue health risk. The PHA will consider other reasonable requests for a remote informal review on a case-by-case basis.

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person informal reviews, the platform for conducting remote informal reviews must be accessible to persons with disabilities and the informal review must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal review process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal review is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual his or her inability to participate in the remote informal review, and the PHA should consider whether postponing the remote informal review to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal reviews, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal reviews.

Conducting Remote Informal Reviews

The PHA must ensure that the lack of technology or inability to use technology for remote informal reviews does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal review and, if the family does not have the proper technology to fully participate, either postpone the informal review or provide an alternative means of access.

As with in-person informal reviews, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA must ensure that the applicant has the right to hear and be heard. All PHA policies and processes for remote informal reviews must be conducted in accordance with due process

requirements and be in compliance with HUD regulations at 24 CFR 982.554 and guidance specified in Notice PIH 2020-32.

HACC Policy

The PHA will conduct remote informal reviews via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal review will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal review will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote review, the PHA will provide the family with login information and/or conferencing call-in information and an electronic and/or physical copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the informal review and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person informal review.

If the informal review is to be conducted remotely, the PHA will require the family to provide any documents directly relevant to the informal review at least 24 hours before the scheduled review through the mail, via email, or text. The PHA will scan and email copies of these documents to the PHA representative the same day.

Documents will be shared electronically whenever possible.

The PHA will follow up the email with a phone call and/or email to the applicant at least one business day prior to the remote informal review to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to the informal review is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

Informal Review Decision [24 CFR 982.554(b)]

HACC must notify the applicant of HACC's final decision, including a brief statement of the reasons for the final decision.

HACC Policy

In rendering a decision, HACC will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice to the family.

The validity of the 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. HACC 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, HACC will uphold the decision to deny assistance.

If the facts prove the grounds for denial, and the denial is discretionary, HACC will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

HACC 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, by first class mail.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

Informal reviews will not be rescheduled unless a request to HACC is submitted at least 24 hours in advance.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555, Pub.L. 109-162]

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 HACC's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether HACC's decisions related to the family's circumstances are in accordance with the law, HUD regulations and HACC policies.

HACC 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 HACC 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 HACC utility allowance schedule
- A determination of the family unit size under HACC's subsidy 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 HACC 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)]

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by HACC
- General policy issues or class grievances
- Establishment of HACC schedule of utility allowances for families in the program
- HACC determination not to approve an extension of a voucher term
- HACC determination not to approve a unit or tenancy
- HACC determination that a unit selected by the applicant is not in compliance with the HQS
- HACC determination that the unit is not in accordance with HQS because of family size
- A determination by HACC to exercise or not to exercise any right or remedy against an owner under a HAP contract

HACC Policy

The PHA will only offer participants the opportunity for an informal hearing when required to by the regulations, and if the PHA denies a request for a reasonable accommodation (see Chapter 2).

Remote Informal Hearings [Notice PIH 2020-32]

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

HACC Policy

HACC has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, HACC will conduct an informal hearing remotely upon request as a reasonable accommodation for a person with a disability, if a participant does not have child care or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person hearing would create an undue health risk. HACC will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

Ensuring Accessibility for Persons with Disabilities and LEP Individuals

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearings must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal hearing process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal hearings is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual his or her inability to participate in the remote informal hearing, and the PHA should consider whether postponing the remote hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation will depend on the specific circumstances and requirements.

As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal hearings.

Conducting Informal Hearings Remotely

The PHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

As with in-person informal hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements, and will be in compliance with HUD regulations at 24 CFR 982.555 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

HACC Policy

The PHA will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five business days prior to scheduling the remote hearing, the PHA will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the PHA of any known barriers. The PHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

The PHA will follow up with a phone call and/or email to the family at least one business day prior to the remote informal hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform.

The PHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and

persons with LEP. Whether the informal hearing is to be conducted via videoconferencing or telephone call-in, the PHA will provide all parties login information and/or telephone call-in information before the hearing.

Informal Hearing Procedures

***Notice to the Family* [24 CFR 982.555(c)]**

When HACC makes a decision that is subject to informal hearing procedures, HACC 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, HACC 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 HACC'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.

HACC Policy

In cases where HACC 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 HACC.

A brief statement of the reasons for the decision including the regulatory reference. The date the proposed action will take place.

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 PHA's hearing procedures.

That the family may request a remote informal hearing

***Scheduling an Informal Hearing* [24 CFR 982.555(d)]**

When an informal hearing is required, HACC must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

HACC Policy

A request for an informal hearing can be made by phone or in writing and delivered to HACC 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 HACC's decision or notice to terminate assistance.

HACC must schedule and send written notice of the informal hearing to the family within 10 business days of the family's request.

If the PHA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

Regarding the processes involved in a remote informal hearing;

That the PHA will provide technical assistance prior to and during the informal hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the PHA and the PHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

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 at least 48 hours prior to the hearing date. At its discretion, HACC may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear within 20 minutes of the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The PHA 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. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, the PHA's decision will stand.

If a family is a "no show" to a hearing it requested and HACC will charge the family for all fees and expenses incurred in conjunction with the hearing (including, without limitation, fees and expenses associated with the review of your hearing request, hearing preparation, attending the hearing and all matters related thereto). Those fees and expenses (i.e., your debt to HACC) will then be listed in the Enterprise Income Verification (EIV) national database of debts owed to a Public Housing Authority. In order to remove a family's name from the EIV, the family must pay the full balance of any such debt in addition to any other debt that may have existed.

Pre-Hearing Right to Discovery [24 CFR 982.555(e)]

Participants and HACC are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any HACC documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If HACC does not make the document available for examination on request of the family, HACC may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

HACC Policy

The family will be allowed to copy only relevant documents related to the hearing. Copies may be given at a charge of \$.25 per page. The family must request discovery of HACC documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

Whenever a participant requests an informal hearing, HACC will inform its Hearings Officer. The Hearings Officer will mail a letter to the participant specifying the date, time and location of the hearing.

If the hearing will be conducted remotely, the PHA will compile a hearing packet, consisting of all documents the PHA intends to produce at the informal hearing. The PHA will mail copies of the hearing packet to the family, the family's representatives, if any, and the hearing officer at least three days before the scheduled remote informal hearing. The original hearing packet will be in the possession of the PHA representative and retained by the PHA.

Documents will be shared electronically whenever possible.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

PHA Policy

For in-person hearings, the PHA will not require pre-hearing discovery by the PHA of family documents directly relevant to the hearing.

If the informal hearing is to be conducted remotely, the PHA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. The PHA will scan and email

copies of these documents to the hearing officer and the PHA representative the same day.

Documents will be shared electronically whenever possible.

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 HACC, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

Attendance at the Informal Hearing

HACC Policy

Hearings may be attended by a hearing officer and the following applicable persons:

A HACC representative(s) and any witnesses for HACC

The participant and any witnesses for the participant

The participant’s counsel or other representative

Any other person approved by HACC 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 HACC’s hearing procedures [24 CFR 982.555(4) (ii)].

HACC 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)]

HACC 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.

HACC 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 HACC. 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 based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.

If either the PHA (or the family, if required in a remote hearing) 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.

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.

HACC Policy

In rendering a decision, the hearing officer will consider the following matters:

HACC Notice to the Family: The hearing officer will determine if the reasons for HACC's decision are factually stated in the Notice.

Discovery: The hearing officer will determine if HACC and the family were given the opportunity to examine any relevant documents in accordance with HACC policy.

HACC Evidence to Support HACC 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 HACC'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 HACC policies. If the grounds for termination are not specified in the regulations or in compliance with HACC policies, then the decision of HACC will be overturned.

The hearing officer will issue a written decision to the family and HACC 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 HACC 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 HACC's decision.

Order: The hearing report will include a statement of whether HACC's decision is upheld or overturned. If it is overturned, the hearing officer will instruct HACC to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct HACC to restore the participant's program status.

Procedures for Rehearing or Further Hearing

PHA 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 PHA will take effect and another hearing will not be granted.

HACC Notice of Final Decision [24 CFR 982.555(f)]

HACC is not bound by the decision of the hearing officer for matters in which HACC 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 HACC determines it is not bound by the hearing officer's decision in accordance with HUD regulations, HACC must promptly notify the family of the determination and the reason for the determination.

HACC Policy

HACC 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 of mailing will be maintained in HACC’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 HACC 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 HACC informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

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 5.514 and 5.518].
- 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 HACC 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 HACC receives notification that the USCIS secondary verification failed to confirm eligible immigration status, HACC 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 HACC with a copy of the written request for appeal and the proof of mailing.

HACC Policy

HACC 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 HACC 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 HACC, of its decision. When the USCIS notifies HACC of the decision, HACC must notify the family of its right to request an informal hearing.

HACC Policy

HACC 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 HACC provide a hearing. The request for a hearing must be made either within 30 days of receipt of HACC 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

HACC 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 HACC 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.

HACC 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 HACC 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 HACC, and to confront and cross-examine all witnesses on whose testimony or information HACC 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 request an interpreter. Upon request, the PHA will provide competent interpretation services, free of charge.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. HACC may, but is not required to provide a transcript of the hearing.

HACC Policy

HACC will not provide a transcript of an audio taped hearing.

Hearing Decision

HACC 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 HACC provide a hearing. The request for a hearing must be made either within 30 days of receipt of HACC 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)]

HACC must retain for a minimum of 5 years the following documents that may have been submitted to HACC by the family, or provided to HACC as part of the USCIS appeal or HACC 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 HACC

16-IV.A. OVERVIEW

HACC is required to include in the administrative plan, policies concerning repayment by a family of amounts owed to HACC [24 CFR 982.54]. This part describes HACC's policies for recovery of monies owed to the HACC by families, or owners.

HACC Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, HACC holds the owner or participant liable to return any overpayments to HACC.

HACC 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 HACC, HACC may utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suit
- State income tax set-off program

16-IV.B. REPAYMENT POLICY

Owner Debts to HACC

HACC Policy

If the owner is entitled to future HAP payments, HACC 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 HACC may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by HACC.

Any amount due to HACC by an owner must be repaid by the owner within 30 days of HACC determination of the debt unless the owner enters into a repayment agreement.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, HACC will ban the owner from future participation in the program and may pursue other modes of collection.

Family Debts to HACC

HACC Policy

Any amount owed to HACC by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, HACC will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, HACC will terminate assistance in accordance with 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 HACC 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

HACC Policy

The owner or family must pay the equivalent amount of the first month's payment at time of signing the repayment agreement.

Payment Thresholds

Notice PIH 2017-12 *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 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2017-12 acknowledges that PHAs have the discretion to establish “thresholds and policies” for repayment agreements with families [24 CFR 982.552(c) (1) (vii)].

HACC Policy

HACC has established the following thresholds for repayment of debts:

Amounts over \$5,000 tenants may request an alternate payment plan that exceeds 48 months, but HACC will not approve a payment agreement that exceeds 60 months.

Amounts between \$3,000 and \$5,000 must be repaid within 48 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 HACC that the threshold applicable to the family's debt would impose an undue hardship, HACC may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, HACC will consider all relevant information, including the following:

The amount owed by the family to HACC

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 982.515

The family's history of meeting its financial responsibilities

Execution of the Agreement

HACC Policy

Any repayment agreement between HACC and a family must be signed and dated by HACC and by the head of household and spouse/co-head (if applicable).

Due Dates

HACC Policy

All payments are due by the close of business on the 8th day of the month. If the 8th does not fall on a business day, the due date is the close of business on the first business day after the 8th. HACC will send a monthly statement showing balance due, payment amount and due date.

Late or Missed Payments

HACC 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 HACC, it will be considered a breach of the agreement.

If a family breaches the agreement 3 times in a 12 month period, the repayment agreement will be considered in default, and HACC will terminate assistance upon written notification to the family. To avoid termination, the family must pay all past due balances and become current on the payment agreement before the proposed termination date. Becoming current does not excuse or eliminate the default clause if any other payments are missed after becoming current.

No Offer of Repayment Agreement

HACC Policy

HACC generally will not enter into a repayment agreement with the family if there is already a repayment agreement in place with the family.

Repayment Agreements Involving Improper Payments

Notice PIH 2017-12 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 PHA 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 PHA 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: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

16-V.A. OVERVIEW

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure HACC performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each HACC as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect HACC 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. 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.

| SEMAP Indicators |
|---|
| <p>Indicator 1: Selection from the waiting list Maximum Score: 15</p> <ul style="list-style-type: none"> • 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. • 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. |
| <p>Indicator 2: Rent reasonableness Maximum Score: 20</p> <ul style="list-style-type: none"> • 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 • 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. |
| <p>Indicator 3: Determination of adjusted income Maximum Score: 20</p> <ul style="list-style-type: none"> • 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. • Points are based on the percent of files that are calculated and verified correctly, according to the PHA’s quality control sample. |
| <p>Indicator 4: Utility allowance schedule Maximum Score: 5</p> <ul style="list-style-type: none"> • This indicator shows whether the PHA maintains an up-to-date utility allowance schedule. • Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA’s certification. |
| <p>Indicator 5: HQS quality control inspections Maximum Score: 5</p> |

- 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.
- Points are based on whether the required quality control reinspections were completed, according to the PHA’s certification.

Indicator 6: HQS enforcement

Maximum Score: 10

- 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.
- Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA’s certification.

Indicator 7: Expanding housing opportunities

Maximum Points: 5

- Only applies to PHAs with jurisdiction in metropolitan FMR areas.
- 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.
- Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA’s certification.

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 that are more than 2 months overdue, according to data from PIC.

Indicator 13: Lease-up**Maximum Points: 20 points**

- This indicator shows whether the PHA enters HAP contracts for at least 98 percent of the number of the PHA's baseline voucher units in the ACC for the calendar year ending on or before the PHA's fiscal year, or whether the PHA has expended at least 98 percent of its allocated budget authority for the same calendar year. The PHA can receive 15 points if 95 to 97 percent of vouchers are leased or budget authority is utilized.
- Points are based on utilization of vouchers and HAP expenditures as reported in the voucher management system (VMS) for the most recently completed calendar year.

Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances**Maximum Points: 10**

- Only applies to PHAs with mandatory FSS programs.
- 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.
- 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.

Success Rate of Voucher Holders**Maximum Points: 5**

- 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.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

Deconcentration Bonus Indicator**Maximum Points: 5**

- 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.

- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

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] and 24 CFR § 578.103

During the term of each assisted lease, and for at least five years thereafter, the PHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the PHA must keep the following records for at least five 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 PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and

Other records specified by HUD. The PHA must keep the last five years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least five years from the end of participation (EOP) date [24 CFR 908.101].

The PHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed five years from the EOP date [Notice PIH 2018-18].

Notice PIH 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

HACC Policy

The PHA will keep for at least five years records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act, the equal access final rule, or VAWA.

The PHA must keep confidential records of all emergency transfer requested by victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking under the PHA's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of five years [see 24 CFR 5.2002(e)(12)].



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.

Per regulation 24 CFR 85.42 (b), if any litigation, claim, or audit is started before the expiration of the minimum retention period of five years, the records must be kept until all of the issues have been resolved and final action taken as stated in that part at 24 CFR 85.42(b)(2).

16-VI.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

HACC Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized HACC staff.

HACC 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 what conditions HUD or HACC 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*.

HACC Policy

HACC has adopted and implemented EIV security procedures as required by HUD and every employee using EIV shall self certify compliance with the security requirements imposed by HUD.

Criminal Records

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of the PHA who have a job-related need to have access to the information [24 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA 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 PHA 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 PHA 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 PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. 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

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

Documentation of Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking see section 16-IX.E.

PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VII.A. OVERVIEW

The PHA has certain responsibilities relative to children with environmental intervention 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 PHA is subject to.

16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

HACC must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

HACC Policy

HACC will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, HACC 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 environmental intervention blood lead level.

If HACC obtains names and addresses of environmental intervention blood lead level children from the public health department(s), HACC 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, HACC must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, HACC 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.

HACC Policy

The public health department(s) will notify HACC if it wishes to receive such a report. The public health department has determined it is not needed more than annually.

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 982.354(e)(1) and 982.454]. If a PHA denies a family a portability move based on insufficient funding, the PHA is required to notify the local HUD office within 10 business days [24 CFR 982.354]. Insufficient funding may also impact the PHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. METHODOLOGY

HACC Policy

HACC 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 HACC'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, HACC 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 HACC cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, HACC will be considered to have insufficient funding.

PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

16-IX.A. OVERVIEW

The Violence against Women Act (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws take precedence over VAWA.

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: 3-I.C, "Family Breakup and Remaining Member of Tenant Family"; 3-III.G, "Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Stalking, and Human Trafficking"; 10-I.A, "Allowable Moves"; 10-I.B, "Restrictions on Moves"; 12-II.E, "Terminations Related to Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking"; and 12-II.F, "Termination Notice."

16-IX.B. DEFINITIONS [24 CFR 5.2003, 42 USC 13925]

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
 - Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or 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 *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 *domestic violence* includes felony or misdemeanor crimes committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:-
 - - The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
 - - A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
 - - A person with whom the victim shares a child in common
 - - A person who commits acts against an youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction
 - • The term economic abuse means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitle, including using coercion, fraud, and manipulation to:
 - - Restrict a person's access to money, assets, credit, or financial information
 - - Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
 - - Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty
- The term *sexual assault* means:
 - Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent
- The term *stalking* means:
 - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.
- The term technological abuse means an act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except

as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

The PHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it.

notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)

A copy of the PHA's emergency transfer plan (Exhibit 16-3)

A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

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

Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

PHAs are required to inform applicants and program participants of their rights under VAWA, including their right to confidentiality and the limits thereof when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

HACC Policy

The PHA will provide all applicants with information about VAWA at the time they request an application for housing assistance. The PHA will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

The PHA will provide all participants with information about VAWA at the time of admission (see section 5-I.B) and at annual reexamination. The PHA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notice in Exhibit 16-1 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking.

Notification to Owners and Managers [24 CFR 5.2005(a)(2)]

While PHAs are no longer required by regulation to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the PHA may still choose to inform them.

HACC Policy

HACC will provide owners and managers with information about their rights and obligations under VAWA at least annually through its Landlord Newsletter that is emailed to the Property.

16-IX.D. DOCUMENTATION [24 CFR 5.2007]

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, human trafficking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

- (1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim
- (2) A federal, state, tribal, territorial, or local police report or court record, or an administrative record

- (3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, stalking, human trafficking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical 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 PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [FR Notice 11/16/16].

HACC Policy

Any request for documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

HACC may, in its discretion, extend the deadline for 10 business days. Any extension granted by the PHA will be in writing.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3) within 30 calendar days of the date of the request for third-party documentation. The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

PHA Policy

If presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, the PHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made. The family will have 30 calendar days from the date of request by the PHA to provide this documentation.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

HACC Policy

If HACC accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault, stalking, or human trafficking, HACC will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to the PHA regarding domestic violence, dating violence, sexual assault, stalking, and human trafficking, including the fact that an individual is a victim, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

HACC Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the PHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

**EXHIBIT 16-1: NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE
AGAINST WOMEN ACT, FORM HUD-5380**

Housing Authority of Clackamas County

Notice of Occupancy Rights under the Violence Against Women Act¹

To all Tenants and Applicants

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.² The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that **The Housing Authority of Clackamas County (HACC)** is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

Protections for Applicants

If you otherwise qualify for assistance under **HACC’s federally funded rental assistance programs**, 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.

¹ Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

² Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Protections for Tenants

If you are receiving assistance under **HACC's federally funded rental assistance 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 **HACC's federally funded rental assistance 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 (for example, the affiliated individual is 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

HP 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 HP chooses to remove the abuser or perpetrator, HP 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, HP 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 removing the abuser or perpetrator from the household, HP must follow Federal, State, and local eviction procedures. In order to divide a lease, HP 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, HP 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, HP 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 your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.

2. You expressly request the emergency transfer. Your housing provider may choose to require that you submit a form, or may accept another written or oral request.

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.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request 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 from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

HP will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

HP's emergency transfer plan provides further information on emergency transfers, and HP must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

HP can, but is not required to, 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 from HP must be in writing, and HP must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. HP may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to HP as documentation. It is your choice which of the following to submit if HP asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by HP with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. 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 is safe to provide.
- A record of a Federal, State, tribal, territorial, 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 an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “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 or evidence that HP has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, HP does not have to provide you with the protections contained in this notice.

If HP receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), HP has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, HP does not have to provide you with the protections contained in this notice.

Confidentiality

HP must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

HP must not allow any individual administering assistance or other services on behalf of HP (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

HP must not enter your information into any shared database or disclose your information to any other entity or individual. HP, however, may disclose the information provided if:

- You give written permission to HP to release the information on a time limited basis.
- HP needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires HP or your landlord to release the information.

VAWA does not limit HP'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.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, HP cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if HP can demonstrate that not evicting you or terminating your 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 HP can demonstrate the above, HP should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **the Rental Assistance Program Manager at HACC by calling 503-650-3139 or emailing HACC@clackamas.us or FAX 503-655-8676.**

For Additional Information

You may view a copy of HUD's final VAWA rule at **[insert Federal Register link]**.

Additionally, HP must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact **the Rental Assistance Program Manager at HACC calling 503-650-3139 or emailing HACC@clackamas.us or FAX 503-655-8676.**

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact **Clackamas Women Services at 503-655-8600.**

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact **Clackamas Women Services at 503-654-2288.**

Victims of stalking seeking help may contact **Clackamas Women Services at 503-655-8600**

Attachment: Certification form HUD-5382

**EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION,
FORM HUD-5382**

**CERTIFICATION OF
DOMESTIC VIOLENCE,
DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING,
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing
and Urban Development**

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: _____
2. Name of victim: _____
3. Your name (if different from victim's): _____
4. Name(s) of other family member(s) listed on the lease: _____

5. Residence of victim: _____
6. Name of the accused perpetrator (if known and can be safely disclosed): _____

7. Relationship of the accused perpetrator to the victim: _____
8. Date(s) and times(s) of incident(s) (if known): _____

10. Location of incident(s): _____

In your own words, briefly describe the incident(s):

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

**EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC
VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING
(HCV VERSION)**

Attachment: Certification form HUD-5382

Housing And Community Development of Clackamas County

**Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence,
Sexual Assault, or Stalking**

Emergency Transfers

Housing and Community Development of Clackamas County (HCD) 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 Violence Against Women Act (VAWA),³ HCD 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.⁴ The ability of HCD to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the program has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

³ Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

⁴ Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

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 to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the Federal agency that oversees that **HCD** is in compliance with VAWA.

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 requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are 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 the Program or Property manager and submit a written request for a transfer to the **HCD Program Manager**. The Program Manager 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 the 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.

Confidentiality

HCD will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer. The only exception is if the tenant gives 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 the Violence Against Women Act For All Tenants for more information about the responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

Each program within HCD is separately funded and has separate wait lists. Therefore, HCD policy is transfers cannot occur between programs if the tenant is not already on the wait list for a different programs due to programs having different criteria for placement. Families that do not wish to accept a transfer within a specific program will be referred to the local Domestic Violence resources for assistance and research into other housing options. For example, Public Housing can only offer Public Housing Transfers as outlined in its Admissions and Occupancy

Policy (ACOP) unless that family is on the Housing Choice Voucher wait list, then they can be given a preference under the Housing Choice Voucher Administrative Plan to move from Public Housing with a Voucher. Programs must follow their Administrative policies for their grants.

HCD cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The program manager will act as quickly as possible to offer a move to 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 program manager may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If any program finds it has no safe and available units for which a tenant who needs an emergency is eligible, the program manager will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the program manager will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Local resources include:

A Safe Place (503) 655-8600

Clackamas Women's Services (503) 654-2288

Los Ninos Cuentan (503) 977-9882

Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383

**EMERGENCY TRANSFER
REQUEST FOR CERTAIN
VICTIMS OF DOMESTIC
VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing
and Urban Development**

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(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.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request 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 from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records;

communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. Name of victim requesting an emergency transfer: _____

2. Your name (if different from victim's) _____

3. Name(s) of other family member(s) listed on the lease: _____

4. Name(s) of other family member(s) who would transfer with the victim: _____

5. Address of location from which the victim seeks to transfer: _____

6. Address or phone number for contacting the victim: _____

7. Name of the accused perpetrator (if known and can be safely disclosed): _____

8. Relationship of the accused perpetrator to the victim: _____

9. Date(s), Time(s) and location(s) of incident(s): _____

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: _____

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

VAWA defines

EXHIBIT 16-5: 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 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking. 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 or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

You cannot evict a tenant who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, stalking, or human trafficking 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, sexual assault, or stalking if you can demonstrate that there is an *actual and 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, sexual assault, stalking, or human trafficking. You cannot hold a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking to a more demanding standard than you hold tenants who are not victims.

Removing the Abuser from the Household

You may bifurcate (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, Sexual Assault, 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, sexual assault, 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:

- A completed, signed HUD-approved certification form. The most recent form is HUD-5382. This form is available at the housing authority or online at <https://portal.hud.gov/hudportal/documents/huddoc?id=5382.docx>.
- A statement from a victim service provider, attorney, mental health professional, or medical professional who has helped the victim address incidents of domestic violence, dating violence, sexual assault, 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.
- A police or court record, such as a protective order, or administrative record.

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, sexual assault, 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, sexual assault, or stalking.

Additional Information

- If you have any questions regarding VAWA, please contact _____.

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 or intimate partner 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 or intimate partner
- 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 *sexual assault* as "any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent" (42 U.S.C. 13925(a)).

VAWA defines *stalking* as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

Chapter 17

PROJECT-BASED VOUCHERS

INTRODUCTION

This chapter describes HUD regulations and HACC 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 HACC 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 HACC's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how HACC 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 what 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 redetermined 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; FR Notice 1/18/17; Notice PIH 2017-21]

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 authorized units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. PHAs may only operate a PBV program if doing so is consistent with HACC's Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

HACC Policy

The PHA opted to eliminate a 20 percent of budget authority cap on project-based voucher allocations under the Moving to Work authority.

See Exhibit 17-1 for information on projects to which the PHA has attached PBV 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, HACC is not required to reduce the number of these units if the amount of budget authority is subsequently reduced. However, HACC is responsible for determining the number 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].

Additional Project-Based Units [FR Notice 1/18/17; Notice PIH 2017-21]

The PHA may project-base an additional 10 percent of its units above the 20 percent program limit. The units may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10 percent cap. Units qualify under this exception if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR 578.3.
- Are specifically made available to house families that are comprised of or include a veteran.
 - *Veteran* means an individual who has served in the United States Armed Forces.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

Only units that that are under a HAP contract that was first executed on or after April 18, 2017, are covered by the 10 percent exception.

HACC Policy

The PHA may project-base up to an additional 10 percent of its authorized units, up to 30 percent, in accordance with HUD regulations and requirements.

Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]

PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the 20 percent limitation when PBV assistance is attached to them.

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017.

HACC Policy

The PHA may project-base units not subject to the 20 percent cap in accordance with HUD regulations and requirements.

- The unit must be covered under a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the PHA either issued the RFP or selected the project, the unit either:
 - Received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for Elderly (Section 202), Housing for Persons with Disabilities (section 811), Rent Supplement (Rent Supp), or Rental Assistance Program (RAP); or
 - The unit was subject to a rent restriction through a loan or insurance program as a result of Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for Elderly Persons (Section 202), or Housing for Persons with Disabilities (Section 811)

Units that have previously received either PBV or HCV assistance are not covered under the exception.

HACC Policy

The PHA may project-base any of the above unit types.

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 HACC 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.

HACC Policy

The PHA will use its MTW authority to adapt its policies to specific buildings and/or programs utilizing project-based assistance.

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 HACC to ensure the owner complies with these requirements.

17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

HACC 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, HACC must comply with HACC 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

With certain exceptions, HACC must describe the procedures for owner submission of PBV proposals and for HACC selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, HACC 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], and meets the site selection standards [24 CFR 983.57]. The PHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51 [Notice PIH 2011-54].

17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51]

Before releasing any Request for Proposals (RFP), HACC must submit to HUD at PBVSubmission@HUD.gov a Notice of Intent to solicit RFP for PBVs and follow guidance PIH Notice 2015-05. HACC must select PBV proposals in accordance with the selection procedures in HACC administrative plan. HACC must select PBV proposals by either of the following two methods.

- HACC request for PBV Proposals. HACC may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to HACC request. HACC 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.

- HACC 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. HACC need not conduct another competition.

Units Selected Non-Competitively [FR Notice 1/18/17; Notice PIH 2017-21; 24 CFR 983.51(b)]

For certain public housing projects where the PHA has an ownership interest or control, the PHA may attach PBV assistance non-competitively without following one of the two processes above.

This exception applies when the PHA is engaged in an initiative to improve, develop, or replace a public housing property or site. The public housing units may either currently be in the public housing inventory or may have been removed from the public housing inventory within five years of the date on which the PHA entered into the AHAP or HAP.

If the PHA is planning rehabilitation or new construction on the project, a minimum threshold of \$25,000 per unit in hard costs must be expended.

If the PHA plans to replace public housing by attaching PBV assistance to existing housing in which the PHA has an ownership interest or control, then the \$25,000 per unit minimum threshold does not apply as long as the existing housing substantially complies with HQS.

The PHA must include in the administrative plan what work it plans to do on the property or site and how many PBV units will be added to the site.

Solicitation and Selection of PBV Proposals [24 CFR 983.51 (c)]

HACC 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 HACC. 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 HACC request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

HACC Policy

HACC Request for Proposals for Rehabilitated and Newly Constructed Units

HACC will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the Daily Journal of Commerce.

In addition, HACC will post the RFP and proposal submission and rating and ranking procedures on its electronic web site.

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In order for the proposal to be considered, the owner must submit the proposal to HACC by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

HACC 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 HACC 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

In order to promote partially assisted projects, projects where less than 25 percent of the units will be assisted will be rated higher than projects where 25 percent or more of the units will be assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the PHA will rate partially assisted projects on the percentage of units assisted. Projects with the lowest percentage of assisted units will receive the highest score.

The competitive process described above may be waived and HACC's Board may choose to award project-based vouchers through a formal resolution process based upon the following criterion:

First, the Board may elect to award PBV to HACC to develop, rehabilitate, or acquire housing as part of a County-wide initiative to meet local housing priorities.

Second, the Board may elect to award PBV to HACC to accomplish the objective of preserving Public Housing or other properties within Clackamas County that have an expiring operating subsidy.

Formal HACC Board of Commissioner's approval process with a resolution will be required for either non-competitive option described above.

HACC Requests for Proposals for Existing Housing Units

HACC will advertise its request for proposals (RFP) for existing housing in the Daily Journal of Commerce.

In addition, HACC will post the notice inviting such proposal submission and the rating and ranking procedures on its web site.

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain

the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

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 HACC goal of deconcentrating 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.

HACC Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

HACC 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.

HACC may periodically advertise that it is accepting proposals, in the Daily Journal of Commerce and on its website.

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition to, or in place of advertising, HACC 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. HACC will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers HACC goal of deconcentrating 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, Choice Neighborhood, or Renewal Community.

PHA-Owned Units [24 CFR 983.51(e), 983.59, FR Notice 1/18/17 and Notice PIH 2017-21]

A HACC-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 HACC-owned units were appropriately selected based on the selection procedures specified in HACC administrative plan. This also applies to noncompetitive selections. If HACC selects a proposal for housing that is owned or controlled by HACC, HACC must identify the entity that will review HACC proposal selection process and perform specific functions with respect to rent determinations, the term of the HAP contract, and inspections.

In the case of PHA-owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by the PHA and a HUD-approved independent entity. In addition, an independent entity must determine the initial rent to owner, the redetermined rent to owner, and reasonable rent. Housing quality standards inspections must also be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for HACC jurisdiction (unless HACC is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

HACC Policy

HACC may submit a proposal for project-based housing that is owned or controlled by HACC. If the proposal for HACC-owned housing is selected, HACC will obtain HUD approval to use an outside entity to review the selection and to administer the PBV program prior to selecting the proposal for HACC-owned housing.

HACC may only compensate the independent entity from HACC ongoing administrative fee income (including amounts credited to the administrative fee reserve). HACC may not use other program receipts to compensate the independent entity for its services. HACC and the independent entity may not charge the family any fee for the appraisal, or the services provided by the independent entity.

HACC Notice of Owner Selection [24 CFR 983.51(d)]

HACC 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.

HACC Policy

Within 30 business days of HACC making the selection, HACC will notify the selected owner in writing of the owner's selection for the PBV program. HACC 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, HACC will publish its notice for selection of PBV proposals on its website. The announcement will include the name of the owner that was selected for the PBV program. HACC will make available to any interested party its rating and ranking sheets and documents that identify HACC 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. HACC will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

HACC will make these documents available for review at HACC during normal business hours. The cost for reproduction of allowable documents will be \$.25 per page.

17-II.C. HOUSING TYPE [24 CFR 983.52]

HACC 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 HACC selection, the units substantially comply with HQS. Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

HACC must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. HACC 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]

HACC 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; manufactured homes; and transitional housing. In addition, HACC may

not attach or pay PBV assistance for a unit occupied by an owner and HACC 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. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

Subsidized Housing [24 CFR 983.54]

A PHA 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 a PHA 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 HACC in accordance with HUD requirements.

17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, Notice PIH 2013-11 and FR Notice3/13/23]

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.

HUD requires new construction and rehabilitation housing that will include forms of governmental assistance other than PBVs to undergo a subsidy layering review (SLR) prior to entering into an Agreement to Enter into Housing Assistance Payments Contract (AHAP). Subsidy layering requirements do not apply to existing housing, when PBV is the only governmental assistance or for projects already subject to a PBV HAP contract, even if the project is recapitalized with outside sources of funding.

When a PHA selects a new construction or rehabilitation project, the PHA must require information regarding all HUD and/or other federal, state, or local governmental assistance to be

disclosed by the project owner using Form HUD-2880. Appendix A of FR Notice 3/23/23 contains a list of all required documentation.

Either HUD or a HUD-approved housing credit agency (HCA) in the PHA's jurisdiction performs the subsidy layering review. The PHA must request a SLR through their local HUD Field Office or, if eligible, through a participating HCA.

If the SLR request is submitted to an approved HCA, and the proposed project-based voucher assistance meets HUD subsidy layering requirements, the HCA must submit a certification to HUD and notify the PHA. The PHA may proceed to execute an AHAP at that time if the environmental approval is received.

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, FR Notice 1/18/17, and Notice PIH 2017-21]

In general, HACC 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 the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project.

As of April 18, 2017, units are not counted against the 25 percent or 25-unit per project cap if:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project
 - If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services. Projects where these caps were implemented prior to HOTMA (HAP contracts executed prior to April 18, 2017) may continue to use the former exceptions and may renew their HAP contracts under the old requirements, unless the PHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

Supportive Services

PHAs 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. As of April 18, 2017, the project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive

services for the exception to apply to the unit, although the family must be eligible to receive the supportive services. It is not necessary that the services be provided at or by the project, but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. A PHA may not require participation in the supportive service as a condition of living in the 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 PHA 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.

HACC Policy (MTW) – Effective 7/1/2024

The MTW authority allows the PHA to exceed the traditional 25 percent or 25-unit limit on PBV units in a single project. The PHA allows project-based vouchers to be awarded to more than 25 units or 25 percent of units in a given project.

The following types of services are encouraged at the projects with more than 25 PBV units or 25 percent of PBV units:

- Transportation for activities such as grocery shopping, attending medical and dental appointments;
- Supervised taking of medications;
- Treatment for drug rehabilitation in the case of current abusers;
- Treatment for alcohol addiction in the case of current abusers;
- Eviction prevention and housing stabilization;
- Supportive living for the mentally ill or other people with disabilities;
- Domestic violence counseling;
- Meals on Wheels;
- Training in housekeeping and homemaking activities;
- Family budgeting;
- Child care;
- Parenting skills;
- Life skills;
- Computer training;
- Work skills development and job training.

The PHA will track services offered at the projects. The sponsor agencies may be required to submit a report to the PHA annually identifying the services received by each family. Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17; Notice PIH 2017-21]

Projects not Subject to a Project Cap [FR Notice 1/18/17; Notice PIH 2017-21]

PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, 100 percent of the units in these projects may receive PBV assistance.

Promoting Partially-Assisted Projects [24 CFR 983.56(c)]

A PHA may establish local requirements designed to promote PBV assistance in partially assisted projects. A *partially assisted project* is a project in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A PHA may establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project containing excepted units or in a single-family building. A PHA may also determine not to provide PBV assistance for excepted units, or HACC may establish a per-project cap of less than 25 units or 25 percent of units.

HACC Policy:

HACC will impose a 50 percent cap on excepted units in multifamily buildings. This cap may be lifted to 100 percent for buildings with fewer than 25 units.

17-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

HACC 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 HACC 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 HACC Plan under 24 CFR 903 and HACC administrative plan.

In addition, prior to selecting a proposal, HACC 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).

HACC Policy

It is HACC goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal HACC will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, HACC will grant exceptions to the 20 percent standard where HACC determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate 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, Choice Neighborhood 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)]

HACC 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 HACC 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]

HACC 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.). HACC 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.

HACC may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and HACC, 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.

HACC must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. HACC 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)]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, and 40 CFR 745.227, apply to the PBV program.

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. HACC 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 PHA may not execute the HAP contract until the units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR 983.103(b), FR Notice 1/18/17, and Notice PIH 2017-20]

The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions, or if the unit passed an alternative inspection.

HACC Policy

HACC will not provide assistance on behalf of the family 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.

Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]

At least once every 24 months 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 inspection requirement.

HACC Policy

HACC will inspect on a biennial basis 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.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

Other Inspections [24 CFR 983.103(e)]

HACC 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. HACC must take into account complaints and any other information coming to its attention in scheduling inspections.

HACC 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 HACC supervisory quality control HQS inspections, HACC should include a representative sample of both tenant-based and project-based units.

Inspecting HACC-Owned Units [24 CFR 983.103(f)]

In the case of HACC-owned units, the inspections must be performed by an independent entity designated by HACC and approved by HUD. The independent entity must furnish a copy of each inspection report to HACC and to the HUD field office where the project is located. HACC must take all necessary actions in response to inspection reports from the independent entity, including exercise of contractual remedies for violation of the HAP contract by HACC-owner.

HACC Policy (MTW) – Effective 7/1/2024

The PHA opted to inspect its own units under the Moving to Work authority.

The PHA will contract an outside agency to conduct a five percent quality control test of the inspections conducted by the PHA when buildings are owned and managed by the PHA.

the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control inspections by a third-party outside agency.

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, HACC 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(b)]. HACC may not enter into an Agreement if construction or rehabilitation has started after proposal submission [24 CFR 983.152(c)]. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and HACC agrees that upon timely completion of such development in accordance with the terms of the Agreement, HACC will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(a)].

Content of the Agreement [24 CFR 983.152(d)]

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 HACC, 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]

The Agreement must be executed promptly after HACC notice of proposal selection to the selected owner. HACC may not enter into the Agreement if construction or rehabilitation has started after proposal submission. HACC may not enter into the Agreement with the owner until the subsidy layering review is completed. HACC may not enter into the Agreement until the environmental review is completed and HACC 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 housing 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.

HACC Policy

HACC will enter into the Agreement with the owner within 10 business days of 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. HACC must monitor compliance with labor standards.

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 HACC in the form and manner required by HACC:

- 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 HACC's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

HACC Policy

HACC 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. HACC will specify any additional documentation requirements in the Agreement to enter into HAP contract.

HACC Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, HACC 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. HACC 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, HACC must not enter into the HAP contract.

If HACC determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, HACC 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

HACC 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. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 CFR 983.202(a)].

17-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

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 (elderly and/or disabled families and families receiving supportive services); 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 PHA has determined that the unit complies with the Housing Quality Standards (HQS), unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions. 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.

HACC Policy

For existing housing, the HAP contract will be executed the first day of the month following HACC determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 10 business days of HACC determining 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 [24 CFR 983.205; FR Notice 1/18/17, and Notice PIH 2017-21]

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 for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 20 years. In the case of PHA-owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

HACC Policy

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

At the time of the initial HAP contract term or any time before expiration of the HAP contract, the PHA may extend the term of the contract for an additional term of up to 20 years if the PHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 20 years. A PHA may provide for multiple extensions; however, in no circumstances may such extensions exceed 20 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than 24 months prior to the expiration of the previous extension contract the PHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. 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. In the case of PHA-owned units, any extension of the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

HACC Policy

When determining whether or not to extend an expiring PBV contract, HACC 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 deconcentrating 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) and FR Notice 1/18/17]

The HAP contract must provide that the term of HACC's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by HACC 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.

In times of insufficient funding, HUD requires that PHAs first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts.

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, HACC 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)]

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 HACC. In this case, families living in the contract units must be offered tenant-based assistance.

Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206; FR Notice 1/18/17, and Notice PIH 2017-21]

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 (TTP) 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 983.208(b)]

HACC 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 HACC determines that a contract does not comply with HQS, HACC 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.

HACC Policy

HACC 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 983.207(a)]

At HACC'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 project for a previously covered contract unit. Before any such substitution can take place, HACC must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [FR Notice 1/18/17 and Notice PIH 2017-21]

The PHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, the PHA must submit to the local field office information outlined in FR Notice 1/18/17. The PHA must also detail in the administrative plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

HACC Policy

The PHA will add units to the contract on a case-by-case basis to ensure the availability of affordable housing as long as the addition of units does not exceed allowable project caps.

17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.207(b) 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 CONTRACT [24 CFR 983.210]

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 HACC, 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;
- The family does not own or have any interest in the contract unit (does not apply to family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

17-V.F. ADDITIONAL HAP REQUIREMENTS

Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.208(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 HACC 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.

HACC 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.

HACC Policy

HACC will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. HACC 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 HACC, the HAP contract may provide for vacancy payments to the owner for a HACC-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 HACC 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).

HACC Policy

HACC will not provide vacancy payments to the owner.

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)]

HACC may select families for the PBV program from those who are participants in HACC'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 HACC, meet asset limitation requirements, 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 HACC's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

HACC Policy (MTW) – 7/1/2024

The PHA will use its MTW authority in a manner that will provide greater access to the PBV program to low-income families with barriers. Screening and eligibility criteria may be different from the requirements for the tenant-based voucher program. The PHA will determine an applicant family's eligibility for the PBV program based on the capacity of the service provider and specific population agreed to be served in HAP contract and Memorandum of Understanding for each specific property. Partnerships with service providers and specific requirements, as laid out in HAP contract and Memorandum of Understanding, will enable the PHA to provide housing assistance to otherwise ineligible applicants. The PHA will follow the regulations governing restrictions on assistance to noncitizens in accordance with policies in Section 3-II.B (cannot be waived by the MTW statute).

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 HACC 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 HACC's waiting list. Once the family's continued eligibility is determined (HACC 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 HACC 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)]

HACC may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and project-based assistance. HACC may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by HACC. If HACC chooses to offer a separate waiting list for PBV assistance, HACC must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If HACC decides to establish a separate PBV waiting list, HACC may use a single waiting list for HACC'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.

HACC Policy (MTW) – 7/1/2024

HACC will establish one PBV wait list by utilizing the Coordinated Housing Access (CHA) wait list to house the most vulnerable that meet each properties unique Tenant Selection Plan (TSP) priority populations.

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 HACC's waiting list. HACC may establish selection criteria or preferences for occupancy of particular PBV units. HACC may place families referred by the PBV owner on its PBV waiting list.

HACC Policy (MTW) – 7/1/2024

HACC as part of the Continuum of Care (CoC), HACC will rely on the CHA wait list prioritization for selection to house the most vulnerable that meet each properties unique Tenant Selection Plan (TSP) priority populations.

Income Targeting [24 CFR 983.251(c) (6)]

At least 75 percent of the families admitted to HACC's tenant-based and project-based voucher programs during HACC 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, HACC 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.

The PHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that preference is consistent with the PHA plan. The PHA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

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 “excepted units” for elderly families or supportive services, the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b); FR Notice 1/18/17].

HACC Policy

The PHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, elderly families or units with supportive services, or mobility impaired persons for accessible units). The PHA will offer additional preferences for particular PBV projects as described by the Tenant Selection Plan for the Project.

17-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

HACC 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 HACC’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, HACC 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, HACC must provide a briefing packet that

explains how HACC 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, HACC 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, HACC 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

HACC 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 a)(2) and (a)(3)].

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 HACC from HACC's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on HACC's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify HACC of any vacancy or expected vacancy in a contract unit. After receiving such notice, HACC must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. HACC and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

HACC Policy

The owner must notify HACC in writing (mail, fax, or e-mail) within 5 business days of learning about any vacancy or expected vacancy.

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, HACC 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.

HACC Policy

If any contract units have been vacant for 120 days, HACC 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 amendment to the HAP contract will be effective the 1st day of the month following the date of HACC's notice.

17-VI.G. TENANT SCREENING [24 CFR 983.255]

HACC Responsibility

HACC is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, HACC may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

HACC Policy

HACC will verify tenants can verify requirements of any special purpose PBV such as VASH or Mainstream, but it will not conduct screening to determine a PBV applicant family's suitability for tenancy.

HACC must provide the owner with an applicant family's current and prior address (as shown in HACC records) and the name and address (if known by HACC) of the family's current landlord and any prior landlords.

In addition, HACC may offer the owner other information HACC may have about a family, including information about the tenancy history of family members or about drug trafficking and

criminal activity by family members. HACC must provide applicant families a description of HACC policy on providing information to owners, and HACC must give the same types of information to all owners.

The PHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, stalking or human trafficking except at the written request or with the written consent of the individual providing the documentation [see 24 CFR 5.2007(a)(4)].

HACC Policy

HACC 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. HACC 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 HACC, 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 HACC model lease.

HACC may review the owner's lease form to determine if the lease complies with state and local law. If HACC determines that the lease does not comply with state or local law, HACC may decline to approve the tenancy.

HACC Policy

HACC will not 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 HACC (the names of family members and any HACC-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)]

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract
- The PHA terminates assistance for the family

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 HACC a copy of all changes.

The owner must notify HACC 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 HACC and in accordance with the terms of the lease relating to its amendment. HACC 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 11/24/08]

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 lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by HACC 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. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Continuation of Housing Assistance Payments [24 CFR 982.258]

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

PHA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the PHA of the change and request an interim reexamination before the expiration of the 180-day period.

Security Deposits [24 CFR 983.259]

The owner may collect a security deposit from the tenant. HACC may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

HACC Policy

HACC will allow the owner to collect a security deposit amount the owner determines is appropriate.

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. HACC 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 983.260]

If HACC determines that a family is occupying a wrong size unit, based on HACC'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, HACC must promptly notify the family and the

owner of this determination, and HACC must offer the family the opportunity to receive continued housing assistance in another unit.

HACC Policy

HACC 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 HACC's determination. HACC 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 HACC offers the family a tenant-based voucher, HACC must terminate the housing assistance payments for a wrong-sized or accessible unit the earlier of the expiration of the term of the family's voucher (including any extension granted by HACC) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If HACC 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 HACC, or both, HACC must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by HACC and remove the unit from the HAP contract.

HACC Policy

When HACC 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, HACC will terminate the housing assistance payments at the expiration of this 30-day period.

HACC 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 983.261]

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 HACC. If the family wishes to move with continued tenant-based assistance, the family must contact HACC to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, HACC 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,

HACC 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.

HACC Policy (MTW) – Effective 7/1/2024

The PHA will allow transfers to the tenant-based program only when the family's name reaches the top of the HCV waiting list, rather than through automatic voucher availability at the end of the first year of PBV residency. The PHA will not give the family priority on the HCV waiting list other than applying general preferences as given to all wait list tenants.

Exceptions for VAWA and reasonable accommodation will be honored after the first year of the lease.

This policy will be implemented with all PBV placements on or after 7/1/2024. Those leased in a PBV unit prior to 7/1/2024 will be grandfathered to follow 24 CFR 983.261.17-VII.D.

EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.262]

As of April 17, 2018, the PHA may not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project

If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

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 by the PHA 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. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA shall cease paying HAP on behalf of the family.

Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a "qualifying family" because the family is no longer an elderly family due to a change in family composition, the PHA has the discretion to allow the family to remain in the excepted unit. If the PHA does not exercise this discretion, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.

Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot

subsequently be denied continued housing opportunity because of this changed circumstance. A PHA or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

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 HACC.

The PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly family member or long-term or permanent hospitalization or nursing care), the elderly family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

HACC Policy

The PHA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members' control.

In all other cases, the PHA will provide written notice to the family and owner within 10 business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, the PHA will terminate the housing assistance payments at the expiration of this 30-day period.

The PHA 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.

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 HACC, 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.

HACC Policy

HACC's goal is to provide as many families with vouchers as possible. Given the budget limitations of the program, HACC must implement policies that control its HAP expenditures.

The rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the PHA, not to exceed applicable payment standard for the unit bedroom size minus any utility allowance

- For projects serving homeless or other high needs hard-to-house populations and offer permanent supportive housing services to all families in the project, HACC will consider rents not to exceed 110% of FMR less utility allowance as the lowest option if rent reasonable;
- The reasonable rent; or
- The rent requested by the owner.
- For PBV rent approved prior to April 1, 2019, the initial rent to owner will not fall below the subsidy layering review initial approved rent by HUD.

Certain Tax Credit Units [24 CFR 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. 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 projects, 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 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.

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 project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]

The PHA must determine reasonable rent in accordance with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- To correct errors in calculations in accordance with HUD requirements

- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant

If the PHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

HACC Policy

HACC will not enter a HAP Contract establishing floors to rents at initial rents.

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, HACC must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When re-determining the rent to owner, HACC must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, HACC 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, HACC 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.

HACC Policy

Upon written request by the owner, HACC 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. HACC 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, HACC 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 HACC determines it is necessary due to HACC budgetary constraints.

Use of Small Area FMRs (SAFMRs) [24 CFR 888.113(h)]

While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant-based program under SAFMRs may apply SAFMRs to all future PBV HAP contracts. If the PHA adopts this policy, it must apply to all future PBV projects and the PHA's entire jurisdiction. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy.

Further, the PHA may apply SAFMRs to current PBV projects where the notice of owner selection was made on or before the effective date of PHA implementation, provided the owner is willing to mutually agree to do so and the application is prospective. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy. If rents increase as a result of the use of SAFMRs, the rent increase may not be effective until the first anniversary of the HAP contract.

HACC Policy

The PHA will not apply SAFMRs to the PHA's PBV program.

Redetermination of Rent [24 CFR 983.302]

The PHA must re-determine the rent to owner upon the owner's request or when there is a 10 percent or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from HACC, 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 HACC. HACC 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).

HACC Policy

An owner's request for a rent increase must be submitted to HACC 60 days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing. Increases will only be contemplated if HACC is not in shortfall funding status.

Rent increases will be applied to all tenants upon approval regardless of lease term.

HACC 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.

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, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract. However, HACC may stipulate in the HAP contract that the maximum rent on a unit will not be less than the initial rent.

HACC Policy

HACC will reduce rents as and when required and make no election by HAP contract to avoid rent decreases.

Rent decreases will be applied to all tenants upon approval regardless of lease term.

Notice of Rent Change

The rent to owner is redetermined by written notice by HACC to the owner specifying the amount of the redetermined rent. HACC 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.

HACC Policy

HACC will provide the owner with at least 30 days written notice of any change in the amount of rent to owner.

HACC-Owned Units [24 CFR 983.301(g)]

For HACC-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. HACC 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 HACC, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

When Rent Reasonable Determinations Are Required

HACC must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10 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;
- HACC 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 project; 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, HACC 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 HACC. The comparability analysis may be performed by HACC 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.

HACC-Owned Units

For HACC-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 HACC-owned units to HACC and to the HUD field office where the project is located.

HACC Policy (MTW) – Effective 7/1/2024

The PHA opted to determine the initial rent to owner and the annual redetermination of rent for the PHA-owned units under the Moving to Work authority.

The PHA will contract an outside agency to conduct a five percent quality control test of initial determination and annual redetermination of rent conducted by the PHA when buildings are owned and managed by the PHA.

Where the PHA-owned units are managed by a third-party property manager, thus reducing the conflict of interest, the PHA will not require quality control testing of initial determination and annual redetermination of rent by a third-party outside agency.

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, HACC may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

HACC Policy (MTW) – Effective 7/1/2024

The PHA will perform comparability analysis in accordance with the policies in Section 8-III.D.

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]

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

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.

PART IX: PAYMENTS TO OWNER

17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP contract, HACC 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 HACC agree on a later date.

Except for discretionary vacancy payments, HACC 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 HACC 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 HACC determines that the vacancy is the owner's fault.

HACC Policy

If HACC determines that the owner is responsible for a vacancy and, as a result, is not entitled to keep the housing assistance payment, HACC will notify the landlord of the amount of housing assistance payment that the owner must repay. HACC will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of HACC, the HAP contract may provide for vacancy payments to the owner. HACC may only make vacancy payments if:

- The owner gives HACC 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 HACC 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 HACC and must provide any information or substantiation required by HACC to determine the amount of any vacancy payment.

HACC Policy

HACC will not make vacancy payments.

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 HACC in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in HACC 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 HACC 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 HACC. The owner must immediately return any excess payment to the tenant.

Tenant and HACC 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 HACC.

Likewise, HACC is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. HACC is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. HACC 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, HACC 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.

HACC may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If HACC chooses to pay the utility supplier directly, HACC must notify the family of the amount paid to the utility supplier.

HACC Policy

HACC will make utility reimbursements to the family or designated rep payee.

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.

EXHIBIT 17-2: Special Provisions Applying to TPVs Awarded as Part of a Voluntary Conversion of Public Housing Units in Projects that Include RAD PBV Units

[24 CFR Part 972.200; Notice PIH 2019-05; Notice PIH 2019-23]

Under certain circumstances, HUD allows small PHAs to reposition a public housing project (or portion of a project) by voluntarily converting units to tenant-based housing choice voucher assistance. In order to preserve affordable housing for residents of the project, the PHA is given priority to receive replacement tenant protection vouchers (TPVs). As part of the voluntary conversion, the PHA has the option to continue to operate it as rental housing. If so, the PHA or subsequent owner must allow existing families to remain in their units using the TPV in the form of tenant-based assistance. In this situation, however, the PHA may choose to project-base these TPVs in the former public housing project. Families must still be provided with the option to remain in their unit using tenant-based assistance. In order for the PHA to project-base the assistance and include these units on the PBV HAP contract, the family must voluntarily consent in writing to PBV assistance following the requirements in Appendix A of Notice PIH 2019-05. If the family fails to consent to PBV assistance and chooses to remain using tenant-based assistance, the family’s unit is excluded from the PBV HAP contract until the family moves out or consents to switching to PBV assistance. In general, all applicable program regulations and guidance for the standard PBV program apply to these units.

The PHA may also convert units in the same former public housing project to the PBV program under the rental assistance demonstration (RAD) program. The RAD statute authorizes HUD to waive certain statutory and regulatory provisions governing the standard PBV program and specify alternative requirements. In order to facilitate the uniform treatment of residents and units at the project, Notice PIH 2019-23 extended some of the alternative requirements to non-RAD PBV units in the converted project (i.e., the TPV units in the project). As such, while PBV TPV units in the converted project generally follow the requirements for the standard PBV program listed in this chapter, where HUD has specified alternative requirements for non-RAD PBV units in the project, PBV TPV units will instead follow the requirements outlined in Chapter 18 of this policy for the RAD PBV program.

RAD Requirements Applicable to Non-RAD units in the Project

| Alternative Requirement under RAD as Listed in Notice PIH 2019-23 | Standard PBV Policy That Does Not Apply | Applicable Policy in Chapter 18 |
|--|---|--|
| 1.6.A.4. Site Selection – Compliance with PBV Goals | 17-II.G. SITE SELECTION STANDARDS applies with the exception of deconcentration of poverty and expanding housing and economic opportunity requirements. | 18-II.F. SITE SELECTION STANDARDS |
| 1.6.B.5.d. PBV Site-Specific | Alternative requirement | 18-VII.C. UTILITY |

| | | |
|---|---|--|
| Utility Allowances | under RAD. No corresponding policy in Chapter 17. | ALLOWANCES |
| 1.6.C.1. No Rescreening of Tenants upon Conversion | Policies contained in Chapter 3 relating to eligibility do not apply to existing tenants who receive TPVs. | 18-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION |
| 1.6.C.2. Right to Return | Alternative requirement under RAD. No corresponding policy in Chapter 17. | 18-I.D. RELOCATION REQUIREMENTS |
| 1.6.C.3. Phase-in of Tenant Rent Increases | Alternative requirements under RAD. No corresponding policy in Chapter 17. | 18-VIII.D. PHASE-IN OF TENANT RENT INCREASES |
| 1.6.C.4. Family Self Sufficiency (FSS) and Resident Opportunities and Self-Sufficiency Service Coordinator (ROSS-SC) Programs | Not covered in administrative plan. | 18-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS |
| 1.6.C.5. Resident Participation and Funding | Alternative requirement under RAD. No corresponding policy in Chapter 17. | 18-VI.D. RESIDENT PARTICIPATION AND FUNDING |
| 1.6.C.6. Resident Procedural Rights | Policies related to hearings in Chapter 16 apply, with added procedural rights and notice requirements as outlined in Chapter 18. | 18-VI.H. RESIDENTS' PROCEDURAL RIGHTS |
| 1.6.C.7. Earned Income Disregard (EID) | Alternative requirements under RAD for in-place residents. New admissions follow policies in Chapter 6. | 18-VI.G. EARNED INCOME DISALLOWANCE |
| 1.6.C.8. Jobs Plus | Not covered in administrative plan. | No corresponding policy. |
| 1.6.C.9. When Total Tenant Payment Exceeds Gross Rent | Alternative requirements under RAD for in-place residents. | 18-VI.B. LEASE, Continuation of Housing Assistance Payments |

| | | |
|---|--|---|
| | New admissions follow policies in 17-VII.B. LEASE, Continuation of Housing Assistance Payments. | |
| 1.6.C.10. Under-Occupied Unit | Alternative requirements under RAD for in-place residents. New admissions follow 17-VII.C. MOVES, Overcrowded, Under-Occupied, and Accessible Units | 18-VI.E. MOVES, Overcrowded, Under-Occupied, and Accessible Units |
| 1.6.D.4. Establishment of Waiting List | Alternative requirements under RAD for initial establishment of the waiting list. Once waiting list is established, follow 17-VI.D. SELECTION FROM THE WAITING LIST | 18-V.D. ORGANIZATION OF THE WAITING LIST |
| 1.6.D.10. Initial Certifications and Tenant Rent Calculations | Alternative requirements under RAD for in-place residents. No corresponding policy in Chapter 17. | 18-VIII.C. TENANT RENT TO OWNER, Initial Certifications |

Note, while Notice PIH 2019-05 states that the PHA must screen families for eligibility for a tenant protection voucher and that families must be below the low-income limit (80 percent of AMI), Notice PIH 2019-23 waives these requirements for residents in projects that include RAD PBV units.

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION

CHEZ AMI

Date: 5/25/2023

DEVELOPMENT INFORMATION

Development Name: Chez Ami

Address: 8358 SE Causey Ave, Happy Valley, OR 97086

Owner Information: Central City Concern

Property Management Company: Central City Concern

PHA-Owned: No

Mixed Finance Development: Yes

HAP CONTRACT

Effective Date of Contract: June 1, 2014

HOTMA Requirements: Pre-HOTMA.

Term of HAP Contract: 15 years

Expiration Date of Contract: May 31, 2029

PBV UNITS

| | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | Total |
|------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| # of Units | 20 | 0 | 0 | 0 | 0 | 0 | 20 |
| Initial Contract Rent | \$1,061 | \$ | \$ | \$ | \$ | \$ | |

Accessible Units and Features:

Chez Ami was constructed in 2002 and is in compliance with Section 504. For new construction Section 504 requires that 5% of the units must be accessible to individuals with mobility impairments and 2% (1 unit) must be accessible to individuals with sensory impairments. At Chez Ami 4 units are fully ADA accessible, including bathrooms internal to the units: #104, 106, 214, 216. The building has one elevator with two accessible decks on the 2nd floor and an accessible, covered patio on the ground floor. There is also one ADA parking space in the lot.

Target Population:

Homeless, 40% AMI or less, sober housing for those with disabilities and requires urine testing.

Excepted Units: None

Supportive Services: Yes, see Exhibit D of HAP Contract

Elderly Units: No

Disabled Units Yes, see accessible units and features above.

Are units excepted because they are located in a low-poverty census tract area?: No

WAITING LIST AND SELECTION

Waiting List Type: Site-based waiting list – Coordinated Housing Access (CHA)

Preferences: 30% AMI, Homeless or at risk of homelessness and disabled.

Preference Verification: Same as HCV; see Chapter 7

For the PBV program, is the income limit the same as the HCV program? 40% AMI

Subsidy Standards: Same as HCV; see Chapter 5

Utilities: Owner pays all utilities. Tenant has no financial responsibility for utilities.

Vacancy Payments: None

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION

Town Center Courtyards

Date: 5/25/2023

DEVELOPMENT INFORMATION

Development Name: Town Center Courtyards (TCC)

Address: 11475 SE 85th Ave, Happy Valley, OR 97086

Owner Information: Central City Concern

Property Management Company: Central City Concern

PHA-Owned: No

Mixed Finance Development: Yes

HAP CONTRACT

Effective Date of Contract: August 1, 2016

HOTMA Requirements: Pre-HOTMA

Term of HAP Contract: 15 years

Expiration Date of Contract: July 31, 2031

PBV UNITS

| | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | Total |
|------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| # of Units | | | 14 | 7 | | | 21 |
| Initial Contract Rent | \$ | \$ | \$1,294 | \$1,738 | \$ | \$ | |

Accessible Units and Features:

Town Center Courtyards was constructed in 2016 and is in compliance with Section 504. For new construction Section 504 requires that 5% of the units must be accessible to individuals with mobility impairments and 2% must be accessible to individuals with sensory impairments. At Town Center Courtyards 3 units are fully ADA accessible, including bathrooms. These units are units 117, 113, 111. There are 4 ADA parking spaces in the lot.

Target Population:

Town Center Courtyards is a 60 unit apartment building that provides affordable apartments and supportive services to very low-income, homeless families. Town Center Courtyards is an alcohol and drug-free environment that provides safe and supportive housing to help residents stabilize and redirect their lives toward self-sufficiency, physical and economic well-being. The PBV's will be made available to this general population.

Excepted Units: None

Supportive Services: Yes, see Exhibit D of HAP Contract

Elderly Units: No

Disabled Units Yes. See Accessible Units and Features.

Are units excepted because they are located in a low-poverty census tract area?: No

WAITING LIST AND SELECTION

Waiting List Type: Site-based waiting list

Preferences: Same as HCV; see Chapter 4

Preference Verification: Same as HCV; see Chapter 7

For the PBV program, is the income limit the same as the HCV program? Same as HCV; see Chapter 3

OCCUPANCY

Subsidy Standards: Same as HCV; see Chapter 5

Utilities: Owner will pay for water, sewer and garbage. Owner will provide a range and refrigerator in each unit. Tenant will pay for all electricity.

Vacancy Payments: None

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION

Rosewood Station

Date: 5/25/2023

DEVELOPMENT INFORMATION

Development Name: Rosewood Station

Address: 8810 SE Otty Rd, Happy Valley, OR 97086

Owner Information: Pedcor Management Corp

Property Management Company: Pedcor Management Corp

PHA-Owned: No

Mixed Finance Development: Yes

HAP CONTRACT

Effective Date of Contract: June 1, 2020

HOTMA Requirements: Post-HOTMA

Term of HAP Contract: 20 years

Expiration Date of Contract: May 21, 2040

PBV UNITS

| | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | Total |
|------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| # of Units | | 11 | 8 | 1 | | | |
| Initial Contract Rent | \$ | \$1,473 | \$1,725 | \$2,429 | \$ | \$ | |

Accessible Units and Features:

Rosewood Station is in compliance with Section 504. For new construction Section 504 requires that 5% of the units must be accessible to individuals with mobility impairments and 2% must be accessible to individuals with sensory impairments. The units meeting these requirements are as follows:

ADA/Sensory Unit Breakdown

| Address | Bedroom Size | ADA | Sensory | PBV |
|------------------------|--------------|-----|---------|-----|
| 8820 SE Otty Road #106 | 2 | X | | |
| 8820 SE Otty Road #107 | 1 | X | | X |
| 8830 SE Otty Road #107 | 1 | | X | |
| 8830 SE Otty Road #108 | 2 | | X | |
| 8830 SE Otty Road #109 | 2 | X | | X |
| 8830 SE Otty Road #110 | 1 | X | | |
| 8840 SE Otty Road #101 | 2 | | X | |
| 8840 SE Otty Road #103 | 1 | | X | |
| 8840 SE Otty Road #105 | 3 | X | | |
| 8840 SE Otty Road #106 | 2 | X | | |
| 8840 SE Otty Road #108 | 1 | X | | |
| 8860 SE Otty Road #105 | 1 | X | | |
| 8860 SE Otty Road #106 | 2 | X | | |
| 8850 SE Otty Road #207 | 2 | X | | |
| 8850 SE Otty Road #103 | 1 | X | | |
| 8850 SE Otty Road #108 | 1 | | X | X |

There are **13** ADA parking spaces in the lot.

Target Population: 50% AMI below

Excepted Units: None

Supportive Services: No

Elderly Units: No

Disabled Units Yes, See Accessible Units and Features

Are units excepted because they are located in a low-poverty census tract area?: No

WAITING LIST AND SELECTION

Waiting List Type: Site-based waiting list

Preferences: Same as HCV; see Chapter 4

Preference Verification: Same as HCV; see Chapter 7

For the PBV program, is the income limit the same as the HCV program? Same as HCV; see Chapter 3

OCCUPANCY

Subsidy Standards: Same as HCV; see Chapter 5

Utilities: Owner will pay for water, sewer and garbage. Owner will provide a range and refrigerator in each unit. Tenant will pay for all electricity.

Vacancy Payments: None

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION

WALSH Commons

Date: WALSH Commons

DEVELOPMENT INFORMATION

Development Name: WALSH Commons

Address: 2326 SE Willard, Milwaukie, OR 97222

Owner Information: Northwest Housing Alternatives (NHA)

Property Management Company: Income Property Management

PHA-Owned: No

Mixed Finance Development: Yes

HAP CONTRACT

Effective Date of Contract: July 1, 2019

HOTMA Requirements: Post-HOTMA

Term of HAP Contract: 15 years

Expiration Date of Contract: 6/30/2034

PBV UNITS

| | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | Total |
|------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| # of Units | | 1 | 1 | 5 | | | 8 |
| Initial Contract Rent | \$ | \$1,530 | \$1,420 | \$2,033 | \$ | \$ | |

Accessible Units and Features:

The Campus was constructed in 2018 and is in compliance with Section 504. For new construction Section 504 requires that 5% of the units must be accessible to individuals with mobility impairments and 2% must be accessible to individuals with sensory impairments. At the Campus 2 units are fully ADA accessible, including bathrooms. These units are: #20 and #24. There are 2 ADA parking spaces in the lot.

Target Population:

NHA Campus is being redeveloped to provide 28 units of affordable housing and supportive services to very low-income, homeless families. The PBV's will be made available to HACC wait list population first as required by regulations with preferences as outlined in the Tenant Selection Plan for the property.

Excepted Units: None

Supportive Services: Yes

Elderly Units: No

Disabled Units Yes please see accessible units and features

Are units excepted because they are located in a low-poverty census tract area?: No

WAITING LIST AND SELECTION

Waiting List Type: Site-based waiting list

Preferences: For families referred from the Annie Ross Domestic Violence Shelter and 30% AMI

Preference Verification: Same as HCV; see Chapter 7

For the PBV program, is the income limit the same as the HCV program? Yes

OCCUPANCY

Subsidy Standards: Same as HCV; see Chapter 5

Utilities: Owner will pay for water, sewer and garbage. Owner will provide a range and refrigerator in each unit. Tenant will pay for all electricity.

Vacancy Payments: None

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION

Clayton Mohr Commons

Date: 5/25/2023

DEVELOPMENT INFORMATION

Development Name: Clayton Mohr Commons

Address: 399 Caufield St, Oregon City, OR 97045

Owner Information: PHA-Owned

Property Management Company: Quantum Residential

PHA-Owned: Yes. Inspected by third party contractor Steven Nagel or HomeForward

Mixed Finance Development: Yes

HAP CONTRACT

Effective Date of Contract: 11/1/2019

HOTMA Requirements: Post-HOTMA

Term of HAP Contract: 20 year term

Expiration Date of Contract: 10/31/2039

PBV UNITS

| | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | Total |
|------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| # of Units | 4 | 12 | 8 | | | | 24 |
| Initial Contract Rent | \$1,026 | \$1,132 | \$1,330 | \$ | \$ | \$ | |

Accessible Units and Features:

Clayton Mohr Commons was newly constructed in 2019 and is in compliance with Section 504. For new construction Section 504 requires that 5% of the units must be accessible to individuals with mobility impairments and 2% must be accessible to individuals with sensory impairments. At Clayton Mohr Commons 2 units are fully ADA accessible, including bathrooms. These units are: #104 and #106. The units accessible for individuals with sensory impairments are #104 and #106. There is one ADA parking spaces in the lot.

Target Population: Veterans

Excepted Units: None

Supportive Services: Yes

Elderly Units: No

Disabled Units Yes please see accessible units and features

Are units excepted because they are located in a low-poverty census tract area?: No

WAITING LIST AND SELECTION

Waiting List Type: Site-based waiting list

Preferences: Veterans in good standing referred by the VA with VASH Vouchers placement.

Preference Verification: Same as HCV; see Chapter 7

For the PBV program, is the income limit the same as the HCV program? Same as HCV; see Chapter 3

OCCUPANCY

Subsidy Standards: Same as HCV; see Chapter 5

Utilities: Owner will pay for water, sewer and garbage. Owner will provide a range and refrigerator in each unit. Tenant will pay for all electricity.

Vacancy Payments: None

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION

Hillside Manor

Date: 5/25/2023

DEVELOPMENT INFORMATION

Development Name: Hillside Manor

Address: 2889 SE Hillside Court, Milwaukie, OR 97222

Owner Information: PHA-owned

Property Management Company: Quantum Residential

PHA-Owned: Yes. Independent entity: Steven Nagel or HomeForward

Mixed Finance Development: Yes

HAP CONTRACT

Effective Date of Contract: June 1, 2020

HOTMA Requirements: Post-HOTMA

Term of HAP Contract: 20 years

Expiration Date of Contract: May 31, 2040

PBV UNITS

| | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | Total |
|----------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| # of Units | | 96 | 4 | | | | |
| Initial Contract Rent RAD | | \$742 | | | | | |
| DeMinis | | \$1,324 | \$1,645 | | | | |
| PBV | | \$1,250 | | | | | |

Accessible Units and Features:

Hillside Manor is in compliance with Section 504. Section 504 requires that 5% of the units must be accessible to individuals with mobility impairments and 2% must be accessible to individuals with sensory impairments. The units meeting these requirements are as follows:

| | Bedroom Size | ADA | Sensory |
|---------|---------------------|------------|----------------|
| Address | | | |

| | | | |
|------|--------|-----|-----|
| | | | |
| #219 | 685 sf | NO | YES |
| #220 | 691 sf | YES | YES |
| #221 | 692 sf | YES | NO |
| #222 | 691 sf | YES | NO |
| #312 | 533 sf | YES | NO |
| #313 | 532 sf | YES | NO |
| #402 | 523 sf | YES | NO |
| #219 | 685 sf | NO | YES |
| #220 | 691 sf | YES | YES |
| #221 | 692 sf | YES | NO |
| #222 | 691 sf | YES | NO |
| #312 | 533 sf | YES | NO |
| #313 | 532 sf | YES | NO |

There are **12** ADA parking spaces in the lot.

Target Population: 50%AMI or below, elderly and disabled.

Excepted Units: None

Supportive Services: Yes

Elderly Units: Yes

Disabled Units: Yes

Are units excepted because they are located in a low-poverty census tract area?: No

WAITING LIST AND SELECTION

Waiting List Type: Site-based waiting list

Preferences: Same as HCV; see Chapter 4

Preference Verification: Same as HCV; see Chapter 7

For the PBV program, is the income limit the same as the HCV program? Same as HCV; see Chapter 3

OCCUPANCY

Subsidy Standards: Same as HCV; see Chapter 5

Utilities: Owner will pay for all utilities (electric, water, sewer and garbage). Owner will provide a range and refrigerator in each unit.

Vacancy Payments: None

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION

Tukwila Springs

Date: 5/25/2023

DEVELOPMENT INFORMATION

Development Name: Tukwila Springs

Address: 18000 Webster Rd, Gladstone, OR 97027

Owner Information: PHA-owned

Property Management Company: HomeForward

PHA-Owned: Yes. Independent entity HomeForward

Mixed Finance Development: Yes

HAP CONTRACT

Effective Date of Contract: 6/21/2022

HOTMA Requirements: Post-HOTMA

Term of HAP Contract: 20 year term

Expiration Date of Contract: 6/20/2042

PBV UNITS

| | SRO | 0 BR | 2 BR | 3 BR | 4 BR | 5 BR | Total |
|------------------------------|------------|-------------|-------------|-------------|-------------|-------------|--------------|
| # of Units | 8 | 40 | | | | | 48 |
| Initial Contract Rent | \$840 | \$1,268 | \$ | \$ | \$ | \$ | |

Accessible Units and Features:

Tukwila Springs is in compliance with Section 504. Section 504 requires that 5% of the units must be accessible to individuals with mobility impairments and 2% must be accessible to individuals with sensory impairments. The units meeting these requirements are as follows: Unit SF ADA Sensory 16 338 SF Yes No 27 382 SF Yes No 36 384 SF Yes No 44 329 SF No Yes There are 2 ADA parking spaces in the parking lot

Target Population: 50% AMI or below, homeless or at risk of homelessness and disabled.

Excepted Units: None

Supportive Services: Yes

Elderly Units: No

Disabled Units: Yes

Are units excepted because they are located in a low-poverty census tract area?: No

WAITING LIST AND SELECTION

Waiting List Type: Site-based waiting list from off the Coordinated Housing Access (CHA)

Preferences: 30% AMI, homeless, disabled, Native American

Preference Verification: Same as HCV; see Chapter 7

For the PBV program, is the income limit the same as the HCV program? Same as HCV; see Chapter 3

OCCUPANCY

Subsidy Standards: Same as HCV; see Chapter 5

Utilities: Owner will pay for all utilities (electric, water, sewer and garbage). Owner will provide a microwave and refrigerator in each unit.

Vacancy Payments: None

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION

Fuller Station

Date: 5/25/2023

DEVELOPMENT INFORMATION

Development Name: Fuller Station

Address: 9730 SE Fuller Rd, Happy Valley, OR 97086

Owner Information: Green Line Affordable Development LP

Property Management Company: Guardian Management

PHA-Owned: No

Mixed Finance Development: Yes

HAP CONTRACT

Effective Date of Contract: 9/29/2022

HOTMA Requirements: Post-HOTMA

Term of HAP Contract: 20 year term

Expiration Date of Contract: 9/28/2042

PBV UNITS

| | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | Total |
|------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| # of Units | | 12 | 10 | 3 | | | |
| Initial Contract Rent | \$ | \$1,442 | \$1,653 | \$2,344 | \$ | \$ | |

Accessible Units and Features:

Fuller Station Affordable Housing is in compliance with Section 504. For new construction Section 504 requires that 5% of the units must be accessible to individuals with mobility impairments and 2% must be accessible to individuals with sensory impairments. The units meeting these requirements are as follows:

ADA/Sensory Unit Breakdown

| Unit | Bedroom Size | ADA | Sensory | PBV |
|------|--------------|-----|---------|-----|
| 209 | 1 | X | X | X |
| 313 | 3 | X | X | |
| 411 | 2 | X | X | X |
| 511 | 2 | X | X | X |
| 611 | 2 | X | X | X |
| | | | | |

There are 7 ADA parking spaces in the lot.

Target Population: All units listed in the contract will be made available to HACC’s current tenant based wait list applicants as required by regulation. All units will be used to serve participants with income at or below 50% AMI with some units further restricted as outlined below:

- The five (5) Mainstream PBV units must serve families where head of household must be nonelderly (62 or younger), disabled and homeless or at risk of homelessness as defined by HUD.

No less than 9 units will service Foster Youth exiting foster care. And no less than 16 units will service families at risk of homelessness or homeless as defined by HUD.

Excepted Units: None

Supportive Services: Yes

Elderly Units: No

Disabled Units Yes see Accessible features and units

Are units excepted because they are located in a low-poverty census tract area?: No

WAITING LIST AND SELECTION

Waiting List Type: Site-based waiting list

Preferences: Same as HCV; see Chapter 4

Preference Verification: Same as HCV; see Chapter 7

For the PBV program, is the income limit the same as the HCV program? Same as HCV; see Chapter 3

OCCUPANCY

Subsidy Standards: Same as HCV; see Chapter 5

Utilities: Owner will pay for water, sewer and garbage. Owner will provide a range and refrigerator in each unit. Tenant will pay for all electricity.

Vacancy Payments: None

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION

Las Flores

Date: 6/30/2023

DEVELOPMENT INFORMATION

Development Name: Las Flores

Address: 14399 Walnut Grove Way, Oregon City, OR 97045

Owner Information: Maple OC Limited Partnership

Property Management Company: Guardian Management

PHA-Owned: No

Mixed Finance Development: Yes, HOME, LIHTC, Metro Bond Funds, etc.

HAP CONTRACT

Effective Date of Contract: 7/11/2023

HOTMA Requirements: “Post-HOTMA.”

Term of HAP Contract: 20 years

Expiration Date of Contract: 7/30/2043

PBV UNITS

| | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | Total |
|------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| # of Units | | | | | | | |
| Initial Contract Rent | \$ | \$1,481 | \$1,668 | \$2,327 | \$ | \$ | |
| PSH | | \$1,613 | \$1,962 | \$2,764 | | | |

Accessible Units and Features:

For new construction Section 504 requires that 5% of the units must be accessible to individuals with mobility impairments and 2% must be accessible to individuals with sensory impairments. The units meeting these requirements are as follows:

| Address | Bedroom Size | ADA | Sensory | PBV |
|---|--------------|-----|---------|-----|
| 14375 Walnut Grove Way, Unit 101, Oregon City, OR 97045 (A) | 2 | X | | X |
| 14375 Walnut Grove Way, Unit 107 Oregon City, OR 97045 (A) | 1 | X | | X |

| | | | | |
|---|---|---|---|---|
| 14371 Walnut Grove Way, Unit 101, Oregon City, OR 97045 (B) | 4 | X | | |
| 14371 Walnut Grove Way, Unit 106, Oregon City, OR 97045 (B) | 3 | X | | X |
| 14379 Walnut Grove Way, Unit 101, Oregon City, OR 97045(G) | 2 | X | | X |
| 14379 Walnut Grove Way, Unit 105, Oregon City, OR 97045 (G) | 3 | | X | |
| 14395 Walnut Grove Way, Unit 102, Oregon City, OR 97045 (C) | 3 | X | | X |
| 14395 Walnut Grove Way, Unit 109, Oregon City, OR 97045 (C) | 1 | | X | X |
| 14391 Walnut Grove Way, Unit 105, Oregon City, OR 97045 (D) | 2 | X | | X |
| 14383 Walnut Grove Way, Unit 101, Oregon City, OR 97045 (F) | 4 | | X | |
| 14383 Walnut Grove Way, Unit 102, Oregon City, OR 97045 (F) | 1 | X | | X |
| 14387 Walnut Grove Way, Unit 102, Oregon City, OR 97045 (E) | 2 | | X | X |
| 14387 Walnut Grove Way, Unit 105, Oregon City, OR 97045 (E) | 3 | X | | X |

There are 5 ADA parking spaces in the lot.

Target Population: None

Excepted Units: None

Supportive Services: 9 Units with Supportive Services

Elderly Units: No

Disabled Units Yes see Accessible Features above

Are units excepted because they are located in a low-poverty census tract area?: No

WAITING LIST AND SELECTION

Waiting List Type: Site-based waiting list and CHA Wait List for PSH units.

Preferences: Same as HCV; see Chapter 4

Preference Verification: Same as HCV; see Chapter 7

For the PBV program, is the income limit the same as the HCV program? Mixed finance development, other income limits may also apply.

OCCUPANCY

Subsidy Standards: Same as HCV; see Chapter 5

Utilities: Engineered UA Tenant responsible for all electric

Vacancy Payments: None

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION

Good Shepherd Village

Date: 1/1/2024

DEVELOPMENT INFORMATION

Development Name: Good Shepherd Village

Address: 12608 SE Skyshow Place, Happy Valley, OR

Owner Information: Good Sheperd Village Limited Partnership (Catholic Charities)

Property Management Company: Quantum Residential

PHA-Owned: No

Mixed Finance Development: Yes

HAP CONTRACT

Effective Date of Contract: November 1, 2023

HOTMA Requirements: “Post-HOTMA.”

Term of HAP Contract: 20 years

Expiration Date of Contract: October 31, 2043

PBV UNITS

| | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | Total |
|------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| # of Units | | | | | | | |
| Initial Contract Rent | \$1582 | \$1694 | \$1924 | \$2330 | \$NA | \$NA | |

Accessible Units and Features: Good Shepherd Village is in compliance with Section 504. For new construction Section 504 requires that 5% of the units must be accessible to individuals with mobility impairments and 2% must be accessible to individuals with sensory impairments. The units meeting these requirements are as follows:

ADA/Sensory Unit Breakdown

| Unit Number | Bedroom Size | ADA | Sensory | PBV | RLRA |
|-------------|--------------|-----|---------|-----|------|
| 105 | 3 BR | YES | NO | NO | NO |
| 111 | 3 BR | YES | NO | NO | NO |
| 121 | 1 BR | NO | YES | NO | YES |
| 138 | 2 BR | YES | NO | NO | YES |
| 220 | 1 BR | NO | YES | YES | NO |

| | | | | | |
|-----|--------|-----|-----|----|-----|
| 238 | 2 BR | YES | NO | NO | NO |
| 239 | STUDIO | YES | NO | NO | NO |
| 323 | 1 BR | YES | NO | NO | YES |
| 339 | STUDIO | YES | NO | NO | NO |
| 342 | 2 BR | NO | YES | NO | NO |
| 423 | 1 BR | YES | NO | NO | NO |
| 438 | 2 BR | NO | YES | NO | YES |
| | | | | | |

There are eight (8) ADA parking spaces in the lot.

Target Population: This project consists of 143 units, located at 12608 SE Skyshow Place.

35 units were awarded Project Based Vouchers (PBVs) under this contract. Of the PBV total, 15 are regular PBV, no less than 15 will be Veteran Administration Supportive Housing (VASH) PBV and 5 will be Mainstream (MS5) PBV.

Excepted Units: None

Supportive Services: Yes

Elderly Units: No

Disabled Units: Yes

Are units excepted because they are located in a low-poverty census tract area?: No

WAITING LIST AND SELECTION

Waiting List Type: Coordinated Housing Access Entry Wait List

Preferences: Families coming out of homelessness or at risk of homelessness

Preference Verification: Same as HCV; see Chapter 7

For the PBV program, is the income limit the same as the HCV program? Mixed finance development and units have 30% AMI/50%AMI may also apply.

OCCUPANCY

Subsidy Standards: Same as HCV; see Chapter 5

Utilities: Owner will pay for Sewer and Garbage. Owner will provide a range and refrigerator in each unit. Tenant will pay for electricity.

Vacancy Payments: No

EXHIBIT 17-1: PBV DEVELOPMENT INFORMATION

Coming soon Molalla Apartments

Date: [Enter the date on which this form was completed]

DEVELOPMENT INFORMATION

Development Name: [Insert name of PBV development]

Address: [Insert full address of PBV development]

Owner Information: [Insert PBV development owner name and contact information. If development is PHA-owned, enter “PHA-owned.”]

Property Management Company: [Insert property management company name and contact information, or enter “None”]

PHA-Owned: [Enter “Yes” or “No.” If yes, enter name of independent entity]

Mixed Finance Development: [Enter “Yes” or “No.” If yes, list other types of funding and units to which other funding applies.]

HAP CONTRACT

Effective Date of Contract: [Enter start date of HAP contract]

HOTMA Requirements: [If HAP contract was signed prior to April 18, 2017, enter “Pre-HOTMA.” If HAP contract was signed on or after April 18, 2017, enter “Post-HOTMA.”]

Term of HAP Contract: [Enter term from HAP contract]

Expiration Date of Contract: [Enter expiration date from HAP contract]

PBV UNITS

| | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | Total |
|------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| # of Units | | | | | | | |
| Initial Contract Rent | \$ | \$ | \$ | \$ | \$ | \$ | |

Accessible Units and Features: [Identify which units are accessible and describe accessibility features or enter “None”]

Target Population: [Describe targeted population in accordance with HAP contract or enter “None”]

Excepted Units: [Identify excepted unit types below or enter “None”]

Supportive Services: [Enter “Yes, see Exhibit D of HAP Contract” or enter “No”]

Elderly Units: [Enter “Yes” or “No.” If yes, identify which units are elderly units.]

Disabled Units (only for HAP contracts executed prior to April 18, 2017) [Enter “Yes” or “No.” If yes, identify which units are for persons with disabilities.]

Are units excepted because they are located in a low-poverty census tract area?: [Enter “Yes” or “No”]

WAITING LIST AND SELECTION

Waiting List Type: [Enter “Site-based waiting list,” “Combined with HCV,” “Waiting list for entire PBV program,” or “Merged with another assisted housing program”]

Preferences: [Enter “Same as HCV; see Chapter 4” or describe preferences offered. If different from HCV, also note in Section 17.1.B of this policy.]

Preference Verification: [Enter “Same as HCV; see Chapter 7” or describe for each preference listed above. If different from HCV, note in Section 17.1.B of this policy.]

For the PBV program, is the income limit the same as the HCV program? (Note: In mixed finance developments, other income limits may also apply.) [Enter “Same as HCV; see Chapter 3” or clearly describe. If different from HCV, note in Section 17.1.B of this policy.]

OCCUPANCY

Subsidy Standards: [Enter “Same as HCV; see Chapter 5” or describe. If different from HCV, note in Section 17.1.B of this policy]

Utilities: [Enter in accordance with HAP contract Exhibit C]

Vacancy Payments: [Enter in accordance with HAP contract Part 1, e, 2 and Section 17-V.F. within this chapter]

Chapter 18

PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program in eight 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 Project Selection. This part describes the cap on assistance at projects receiving PBV assistance, ownership and control, and site selection standards.

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: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution and term of the HAP contract.

Part V: 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 VI: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move.

Part VII: Determining Contract Rent. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

Part VIII: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

18-I.A. OVERVIEW AND HISTORY OF THE RAD PROGRAM

The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

- Preserve and improve public and other assisted housing.
- Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.
- Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.
- Increase tenant mobility opportunities.

Under the first component, a PHA with public housing units may submit an application to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:

- Project-based rental assistance (PBRA) under HUD's Office of Multifamily Housing Programs.
- Project-based vouchers (PBVs) under HUD's Office of Public and Indian Housing (PIH).

HACC Policy

HACC has chosen to apply for PBVs under HUD's Office of PIH.

This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.

18-I.B. APPLICABLE REGULATIONS

On the 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 sections 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 2019-23 (issued September 5, 2019). Any non-RAD PBV units located in the covered project are subject to the same waivers and alternative requirements where noted in Notice PIH 2019-23 and in this policy.

Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) notices and 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), the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235, approved December 6, 2014), the Consolidated Appropriations Act of 2016 (Public Law 114-113, approved December 18, 2015), the Consolidated Appropriations Act, 2017 (Public Law 115-31, approved May 5, 2017), and section 237 of Title II, Division L, Transportation, Housing and Urban Development, and Related Agencies, of the Consolidated Appropriations Act, 2018 (Public Law 115-141, approved March 23, 2018) collectively, the “RAD Statute.”

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. For all conversion types, HUD reserves the right, in its sole discretion and upon request from the applicant, to apply provisions from previous versions of this notice to program participants that are near conversion.
 - Notice PIH 2023-19 amends Notice PIH 2019-23 and Notice PIH 2021-07, and was effective immediately.
 - Notice PIH 2019-23 was immediately applicable at the time of closing to all projects converting assistance (notwithstanding execution of a commitment for conversion). Notice PIH 2019-23 was published on September 5, 2019.
 - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period.
 - Notice PIH 2012-32, REV-3 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published January 12, 2017.

- Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which were effective after a 30-day comment period.

- Notice PIH 2012-32, REV-2 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published June 15, 2015.
 - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period.
 - RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (10/14)
- RAD Welcome Guide for New Awardees: RAD 1st Component (3/15)
- 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.

NOTE: The policies in this chapter follow Notice PIH 2016-17. If your project falls under PIH 2014-17, applicable policies may be found in Section 18-I.D.

- RAD FAQs (<http://www.radresource.net/search.cfm>)

HACC Policy

| <u>Project</u> | <u>Closing Date</u> | <u>RAD Notice</u> |
|----------------|---------------------|--------------------|
| Hillside Manor | January 1, 2021 | PIH Notice 2019-23 |
| | | |

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.

18-I.C. 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 HACC's 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.

HACC Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the PHA 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.

See Exhibit 18-1 for information on projects to which the PHA has attached PBV assistance.

18-I.D. RELOCATION REQUIREMENTS

For projects that apply for conversion of assistance under the First Component of RAD and will convert November 10, 2016, or later, the following applies [Notice PIH 2016-17]:

- In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed. Any non-RAD PBV units located in the same project are also subject to the right to return.
- Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. A written relocation plan is required if the RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year. While the PHA is not required to have a written relocation plan for temporary relocation lasting one year or less, HUD strongly encourages PHAs to prepare one. Appendix II of Notice PIH 2016-17 contains recommended contents for a relocation plan.
- In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24. The

obligation due to relocating residents under RAD are broader than URA relocation assistance and payments.

- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either: a) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or b) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion.
- Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

- If the PHA’s proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. PHAs must alter the project plans to accommodate the resident’s right to return to the development if the resident would be precluded from returning to the development.
- Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:
 - Changes in the development’s bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;
 - The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development;
 - Income limit eligibility requirements associated with the LIHTC program or another program; and
 - Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident.
- Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept a PHA or owner’s offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, the PHA must secure the resident’s written consent to a voluntary permanent relocation in lieu of returning to the development. PHAs are prohibited from employing any tactics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, a PHA may not terminate a resident’s lease if the PHA fails to obtain the resident’s consent and the resident seeks to exercise the right to return.
- In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident’s right to return must be accommodated within the development associated with the resident’s original unit, however, the PHA may treat multiple converted developments on the same site as one for purposes of right to return. Should the PHA seek to have the resident exercise the right to return at a future phase, the PHA must secure the resident’s consent in writing.
- Alternative housing options may involve a variety of housing options, including but not limited to:
 - Transfers to public housing
 - Admission to other affordable housing properties subject to the applicable program rules
 - Housing choice voucher (HCV) assistance
 - Other options identified by the PHA

However, for projects that applied for conversion prior to November 10, 2016, the following applies [Notice PIH 2014-17]:

- In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.
- Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. While the PHA is not required to have a written relocation plan, HUD strongly encourages PHAs to prepare one. Appendix I of Notice PIH 2014-17 contains recommended contents for a relocation plan.
- In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24.
- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. 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.

18-I.E. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8; 24 CFR 5.105; Notice PIH 2016-17]

RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. These authorities prohibit discrimination and impose affirmative obligations on HUD program participants. PHAs must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated. See the *RAD Fair Housing, Civil Rights, and Relocation Notice* [Notice PIH2016-17] for more information.

PART II: PBV PROJECT SELECTION

18-II.A. OVERVIEW

Unlike in the standard PBV program where the PHA typically selects the property through an owner proposal selection process, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2012-32, REV-3. Therefore, 24 CFR 983.51 does not apply since HUD selects RAD properties through a competitive selection process.

18-II.B. OWNERSHIP AND CONTROL [Notice PIH 2019-23]

For project governed by PIH 2019-23, the following language applies:

- Under the PBV program, the contract administrator and the owner listed on the contract cannot be the same legal entity (i.e., the PHA cannot execute a contract with itself). To avoid this situation, the PHA may either: 1) Transfer the ownership of the project to a nonprofit affiliate or instrumentality of the PHA (including to a “single-purpose entity” that owns nothing other than the property, which will typically be a requirement of a lender or investor), or 2) The PHA can form a related entity that is responsible for management and leasing and can serve as the owner for purposes of the Section 8 HAP contract; in this scenario, the HAP is then executed between the PHA (as the contract administrator) and the PHA’s related entity (as the owner for HAP contract purposes). Note that in the second scenario, both the PHA and the entity serving as the owner for HAP contract purposes will be required to sign the RAD Use Agreement [RAD Resource Desk FAQ 01/24/19].
- Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or non-profit entity. HUD may also allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the project, but only if HUD determines that the PHA or a nonprofit entity preserves and interest in the profit. The requirement for a public or non-profit entity, or preservation of an interest by a PHA or on-profit in a property owned by a tax credit entity controlled by a for-profit entity, is satisfied if a public or non-profit entity (or entities), directly or through a wholly-owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) demonstrates other ownership and control arrangements approved by HUD.
- Control may be established through the terms of the project owner’s governing documents or through a Control Agreement, provided that in either case amendment of the terms of control requires consent from HUD.

For projects subject to the requirements of Notice PIH 2012-32, REV-3, the following language applies:

- Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. The requirement for a public or nonprofit entity is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) other ownership and control arrangements approved by HUD.
- If low-income housing tax credits will be used, HUD may allow ownership of the property to be transferred to a tax credit entity controlled by a for-profit entity if HUD determines that the PHA preserves its interest in the property. Preservation of PHA interest in the property includes but is not limited to the following:
 - The PHA, or an affiliate under its sole control, is the general partner or managing member;
 - The PHA retains fee ownership and leases the real estate to the tax credit entity pursuant to a long-term ground lease;
 - The PHA retains control over leasing the property and determining program eligibility;
 - The PHA enters into a control agreement by which the PHA retains consent rights over certain acts of the project owner and retains certain rights over the project;
 - Other means that HUD finds acceptable

For projects that converted assistance prior to the implementation of Notice PIH 2012-32, REV-3, the following language applies:

- During both the initial term and renewal terms of the HAP contract, ownership must be either of the following:
 - A public or nonprofit entity that has legal title to the property. The entity must have the legal authority to direct the financial, legal, beneficial, and other interests of the property; or
 - A private entity, if the property has low-income tax credits. The PHA must maintain control via a ground lease.

18-II.C. PHA-OWNED UNITS [24 CFR 983.59, FR Notice 1/18/17, and Notice PIH 2017-21]

If the project is PHA-owned, rent-setting and inspection functions set out in 24 CFR 983.59 must be conducted by an independent entity approved by HUD.

The definition of ownership or control provided under Notice PIH 2019-23 (listed above) is used specifically to determine whether a PHA retains control over a project for purposes of HUD's requirement for ownership or control of the covered project under RAD. For purposes of determining whether an independent entity will perform certain functions for the project, the definition of PHA-owned under Notice PIH 2017-21 is used. This is the same definition used for standard PBV units. In some cases, a project may meet the RAD definition of ownership or control but may not be considered PHA-owned for purposes of requiring an independent entity.

The independent entity that performs the 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.

The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

HACC Policy

If units converted to PBV under RAD are PHA-owned housing, the PHA will use either Washington County Housing Authority of HomeForward as the HUD-approved independent entity.

18-II.D. SUBSIDY LAYERING REQUIREMENTS [Notice PIH 2019-23]

For projects governed by Notice PIH 2019-23, the following language applies:

- In the case of a PHA that will no longer have ACC units as a result of the pending or simultaneous closing, or have less than 50 units remaining and have initiated procedures to dispose of their final ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project or projects through the conversion. However, the PHA must estimate and plan for outstanding liabilities and costs and must follow Notice PIH 2016-23 or successor notice regarding the administrative activities required to terminate the ACC if it has no plans to develop additional public housing.
- In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.
- Following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless those funds have been identified in the RCC and converted at closing for Section 8 RAD purposes.

For projects governed by Notice PIH 2012-32, REV-3, the following language applies:

- In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered projects. In order to cover the cost of administrative activities required to terminate the ACC, once it no longer has units under the ACC and has no plans to develop additional public housing, the PHA may:
 - Designate that a reserve associated with the project be available to fund any public housing closeout costs (such as an operating deficit reserve or a specific PHA closeout reserve). Any funds not needed for public housing closeout costs would remain in such reserve or may be transferred to another reserve associated with the project (such as the replacement reserve). Thereafter, these funds may be used at the project pursuant to the authorized use of the applicable reserve; or
 - Retain funds under the public housing program for this purpose. However, HUD will recapture any public housing funds that a PHA does not expend for closeout costs.
- In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will

trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

- In addition, following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless such funding has been identified in the approved financing plan and included in the approved “sources and uses” attached to the RCC.

For projects governed by the requirements of Notice PIH 2012-32, REV-2, the following language applies:

- In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered project. HUD will recapture any public housing funds that a PHA has not expended once it no longer has units under ACC. In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

18-II.E. PBV PERCENTAGE LIMITATION AND UNIT CAP [Notice PIH 2019-23 and Notice PIH 2023-19]

PBV Percentage Limitation

Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which under the standard PBV program is set at 20 percent of the authorized units allocated to a PHA under the HCV program. The number of PBV units excluded from the PHA's PBV program cap cannot exceed the number of former public housing units that those PBV units are replacing through the course of the RAD conversion. All PBV units in a covered project that replace former public housing units at the time of conversion are excluded from both the numerator and the denominator when calculating the percent of vouchers that may be project-based by a PHA. To implement this provision, HUD is waiving section 8(o)(13)(B) of the 1937 Act as well as 24 CFR 983.6.

Unit Cap Limitation

When HUD published REV-3 of Notice PIH 2012-32, the cap on the number of assisted units in each project was eliminated. Under the standard PBV program the cap is set at the greater of 25 units or 25 percent of the units in the project. HUD is waiving this requirement, and projects governed by Notice PIH 2019-23 and Notice PIH 2012-32, REV-3 have no cap on the number of units that may receive PBV assistance in a project.

However, for projects that are governed by REV-2 of Notice PIH 2012-32, the cap on the number of PBV units in the project is increased to 50 percent. In these projects, however, provided units met certain exception criteria, the PHA may have converted a larger number of units to RAD PBV. For projects governed by the requirements of Notice PIH 2012-32, REV-2 **only**, the following language applies:

- In general, the PHA may not 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 50 percent of the number of dwelling units (assisted or unassisted) in the project. However, PHAs may exceed the 50 percent limitation when units in the project are occupied by elderly and/or disabled families or families that will receive supportive services. These units are known as "excepted units" and do not count toward the project cap.
- For projects governed by the requirements of Notice PIH 2012-32, REV-2 choosing to include excepted units, additional policy decisions may be required.

HACC Policy

For projects governed by Notice PIH 2012-32, REV-2, the PHA will not provide RAD PBV assistance for any excepted units.

18-II.F. SITE SELECTION STANDARDS [Notice PIH 2019-23; Notice PIH 2016-17]

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, with the exception of 983.57(b)(1) and (c)(2). HUD waives the provisions regarding deconcentration of poverty and expanding housing and economic opportunity for existing housing sites.

To facilitate the uniform treatment of residents and units, any non-RAD PBV units located in the same project are subject to the terms of this provision.

HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

18-II.G. ENVIRONMENTAL REVIEW [Notice PIH 2019-23; *Environmental Review Requirements for RAD Conversions*, March 2019]

HUD cannot approve an applicant's financing plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements. Environmental documents must be submitted no later than the applicant's financing plan. HUD will not issue a RAD Conversion Commitment (RCC) if the project plan does not meet the environmental review requirements described in Attachment 1A of Notice PIH 2019-23. Once an awardee has submitted an application for a specific project, they may not make any choice limiting actions before the completion of the environmental review.

PART III: DWELLING UNITS

18-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

18-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program 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); Notice PIH 2019-23]

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, and 40 CFR 745.227, apply to the PBV program.

18-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES [Notice PIH 2016-17]

Federal accessibility requirements apply to all conversions, whether they entail new construction, alternations, or existing facilities. 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)

18-III.D. INSPECTING UNITS

Initial Inspection [RAD Quick Reference Guide, Notice PIH 2019-23, and Notice PIH 2023-19]

Under standard PBV regulations at 24 CFR 983.103(b), a PHA may not enter into a HAP contract until the PHA has determined all units comply with HQS. It is the responsibility of the contract administrator to perform this initial inspection (unless units are PHA-owned). In order to accommodate projects in which repairs are conducted, however, HUD has waived this requirement when units are undergoing rehabilitation. In this case, units must meet HQS by the date indicated in the RAD Conversion Commitment (RCC). To place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that

the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units to be added to the HAP contract instead of conducting an initial inspection. During the period of the work, HQS requirements apply. The PHA must enforce the project owner's obligations and conduct inspections when needed, (for example in response to tenant complaints or other information coming to its attention), and the owner must correct any deficiencies in accordance with HQS requirements (i.e., no more than 24 hours for a life-threatening deficiency, and within no more than 30 calendar days or any PHA-approved extension for other defects, but no later than the date of the completion of the work as indicated in the RCC).

Turnover Inspections [24 CFR 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20]

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, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS.

HACC Policy

HACC will not provide assistance in turnover units until the unit fully complies with HQS.

Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]

At least once every 24 months 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 inspection requirement.

HACC Policy

HACC will inspect on biennial basis 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.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

Alternative Inspections [24 CFR 983.103(g); Notice PIH 2016-05]

In the case of mixed-finance properties that are subject to alternative inspections, the PHA may rely upon an alternative inspection conducted at least triennially to demonstrate compliance with inspection requirements.

HACC Policy

HACC may rely on alternative inspection standards.

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 PHA 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); Notice PIH 2017-21]

In the case of PHA-owned units, all required inspections must be performed by an independent entity 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: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

18-IV.A. OVERVIEW [PBV Quick Reference Guide 10/14]

Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with the PHA that will administer the PBV assistance. Units assisted under a RAD PBV HAP contract must be subject to long-term, renewable use and affordability restrictions.

18-IV.B. HAP CONTRACT REQUIREMENTS

Contract Information [PBV Quick Reference Guide 10/14; Notice PIH 2019-23]

The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621). For closings on or after January 1, 2018, HUD incorporated the RAD rider directly into the standard PBV HAP contract. For closing that occurred prior to January 1, 2018, the RAD rider must be attached to the PBV HAP contract.

The distinction between “existing housing” and “rehabilitated and newly constructed housing” is overridden by RAD requirements. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

Execution and Effective date of the HAP Contract [*RADBlast!* 7/11/16]

RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

Term of HAP Contract [Notice PIH 2019-23]

The initial term of the HAP contract may not be for less than 15 years and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. Contracts are subject to the terms and conditions applicable at the time of each offer and further subject to the availability of appropriations for each year of each such renewal. To implement this provision, HUD is waiving section 8(o)(13)(F) of The United States Housing Act of 1937, which permits a minimum term of one year, as well as 24 CFR 983.205(a), which governs the contract term.

Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2019-23]

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

Mandatory Contract Renewal [Notice PIH 2019-23]

By statute, upon contract expiration, the agency administering the vouchers will offer, and the PHA will accept, renewal of the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. The contract is subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently 24 CFR 983.205(b), governing the PHA discretion to renew the contract, will not apply.

In the event that the HAP contract is removed due to breach, non-compliance or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

Remedies for HQS Violations [24 CFR 983.208(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 unit does not comply with HQS, the PHA 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.

HACC Policy

The PHA will abate and terminate PBV HAP contracts for noncompliance 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.

18-IV.C. AMENDMENTS TO THE HAP CONTRACT

Floating Units [Notice PIH 2019-23]

Upon request of the owner to the voucher agency that will administer the project, HUD will permit assistance to float among units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.

If the PHA chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

HACC Policy

HACC will not float assistance among unoccupied units within the project.

Reduction in HAP Contract Units [Notice PIH 2019-23]

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

The PHA may not reduce the number of assisted units without written HUD approval. Any HUD approval of a PHA's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where the development has "floating" units.

18-IV.D. HAP CONTRACT YEAR AND ANNIVERSARY DATES [24 CFR 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 date for all units under a particular HAP contract.

18-IV.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]

When the owner executes the HAP contract, he or she 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 PHA, 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;
- The family does not own or have any interest in the contract unit (this does not apply to the family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

18-IV.F. 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.

HACC Policy

HACC will not provide vacancy payments to the owner.

PART V: SELECTION OF PBV PROGRAM PARTICIPANTS

18-V.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.

18-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION [Notice PIH 2019-23]

Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2019-23 (e.g., rent phase-in provisions). For example, a unit with a household 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. Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.

Further, so as to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR 983 for non-RAD PBV. Any non-RAD PBV units located in the same project are also subject to the right to return.

For the RAD PBV program, *in-place family* means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

18-V.C. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

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)], and meet asset limitation requirements. 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]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

HACC Policy

HACC will determine an applicant family's eligibility for the RAD PBV program in accordance with the policies in Chapter 3.

18-V.D. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c); Notice PIH 2019-23]

The standard PBV regulations at 24 CFR 983.251 set out program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents 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. Any non-RAD PBV units located in the same project are also subject to these requirements.

HACC Policy.

HACC will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance. A by name list of all wait lists will be maintained on HACC's website.

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, HACC will consider transferring such household, consistent with program requirements for administration of waiting lists, to HACC's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the 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 lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

HACC will maintain the project-specific waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv). HACC will provide applicants full information about each development, including location, occupancy, number and size of accessible units, and amenities like day care, security, transportation, and training programs at each development with a site-based waiting list. The system for selection will be consistent with all applicable civil rights and fair housing laws and regulations and may not be in conflict with any imposed or pending court order, settlement agreement, or complaint brought by HUD.

HACC will give priority to participants moving under a VAWA emergency transfer from on PBV development to another in accordance with Section 18-VI.E.

18-V.E. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]

After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from HACC's waiting list. HACC may establish selection criteria or preferences for occupancy of particular PBV units.

Income Targeting [24 CFR 983.251(c)(6); Notice PIH 2019-23]

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA 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.

Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements. Any non-RAD PBV units located in the same project are also subject to these requirements.

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 PHA must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d); FR Notice 11/24/08; Notice PIH 2012-32, REV-3]

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.

HACC Policy

HACC will not offer any preferences for the RAD PBV program or for particular PBV projects or units. However, the PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Section 18-VI.E.

18-V.F. 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:

- Refusing to list the applicant on the waiting list for tenant-based voucher assistance
- Denying any admission preference for which the applicant qualifies
- Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy
- Removing 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).

18-V.G. OWNER SELECTION OF TENANTS [24 CFR 983.253]

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.

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.

HACC Policy

The owner must notify HACC in writing (mail, fax, or e-mail) within five business days of learning about any vacancy or expected vacancy.

HACC will make every reasonable effort to refer families to the owner within 10 business days of receiving such notice from the owner.

18-V.H. 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.

HACC Policy

HACC 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 PHA 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.

The PHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, stalking, or human trafficking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(c)].

HACC Policy

HACC 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. HACC 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
- Compliance with other essential conditions of tenancy

PART VI: OCCUPANCY

18-VI.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner, and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

18-VI.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter into 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.

The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

Lease Requirements [24 CFR 983.256(c); Notice PIH 2019-23]

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 provided by the owner; and
- The amount of any charges for food, furniture, or supportive services.

The PHA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD.

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 PHA (the names of family members and any PHA-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); *PBV Quick Reference Guide* (10/14)]

Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract
- The PHA terminates assistance for the family

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 PHA a copy of all changes.

The owner must notify the PHA 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 PHA and in accordance with the terms of the lease relating to its amendment. The PHA 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; Notice PIH 2019-23]

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.

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner’s lease as well as the PHA’s administrative plan. In addition to the regulations 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 may not be less than:

- A reasonable period of time, but not to exceed 30 days:
 - If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
 - In the event of any drug-related or violent criminal activity or any felony conviction

- Not less than 14 days in the case of nonpayment of rent
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

These provisions apply to non-RAD PBV units located in the project as well.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA 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. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

- **Continuation of Housing Assistance Payments [24 CFR 983.258; Notice PIH 2019-23; Notice PIH 2023-19; RAD PBV Quick Reference Guide 6/20]** The unit for a family with a TTP that equals or exceeds the gross rent (which is defined as the contract rent plus any utility allowance for the unit) must be placed on the PBV HAP contract and the family must be admitted to the PBV program. In this case, and until such time as the family's TTP falls below the gross rent, the family will pay the owner the alternate rent which is defined as the lesser of:
 - The family's TTP minus the utility allowance (subject to any required phase-in); or
 - The Zero HAP Rent Cap, which is the lower of:
 - 110 percent for the applicable FMR minus the utility allowance; or
 - In the event the units are subject to more restrictive rent setting requirement under the LIHTC or HOME programs (or other programs approved by HUD on a project-specific basis, the rent to owner set to comply with such requirements.

The family will continue to pay this amount until/if circumstances change, and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance in which case normal PBV rent requirements will apply to the family. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard 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 or added back to the HAP Contract. Any non-RAD PBV units located in the same project are also subject to these requirements.

After a family has paid the Zero HAP Rent Cap for a period of 180 days, the PHA must remove the unit from the HAP Contract and the family's participating in the PBV program ends. If the Covered Project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit back onto the HAP contract and admit an eligible family. If the Covered Project is partially assisted and the family subsequently leaves the property, the unit must be reinstated back onto the HAP contract unless the PHA previously substituted a different unit on the HAP contract in accordance with 24 CFR § 983.207 or, where "floating units" have been permitted. Additionally, if the family continues to reside in the project after the family's unit was removed from the HAP contract, the family may request to return to the PBV program if the family's

income subsequently decreases to the extent that the family's TTP is less than the Zero-HAP Rent Cap, and the family is otherwise eligible for PBV assistance. The PHA must, at the earliest opportunity, reinstate the family's unit back onto the HAP contract to provide rental assistance to the family. If the project was partially assisted and the PHA previously substituted a different unit on the HAP contract, the PHA must substitute the family's unit for a vacant unit on the HAP contract if there is a vacant unit at the time of the request, or by doing so as soon as a unit on the HAP contract becomes vacant if there are no vacant units on the HAP contract at the time of the family request

New Admission Families

Unless waiver is requested and approved, following conversion, 24 CFR 983.53(d) applies, and any new admission referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. This means a family's TTP may not equal or exceed the gross rent for the unit at admission. The PHA may request a waiver from HUD in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not paid HAP for the family in 180 days.

Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180 day window. If a family's assistance is terminated as a result of their zero HAP status, the PHA must remove the unit from the HAP contract. If the project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit after the family has vacated the property and admit an eligible family. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207 or where floating units have been permitted..

Per the RAD Use Agreement, the owner may charge the family a rent that does not exceed 30 percent of 80 percent of the area median income. If a unit is removed from the RAD PBV HAP contract, then the lease terminates automatically, as stated in the tenancy addendum, as though the RAD PBV HAP contract had been terminated. The tenant must be offered a new lease, which must reflect the new tenant rent. A tenant in this circumstance is no longer a program participant and therefore no longer benefits from any of the rights or protections specific to RAD, or to the PBV program. Should the family subsequently lose employment, the owner may choose to reduce the family's rent, but if the family wishes to be admitted to the HCV/PBV program, then it must be admitted through the waiting list like any other applicant.

In circumstances where low RAD PBV rents may prohibit a significant number of otherwise eligible families on the waiting list from being admitted to the project because they do not require subsidy, and which could consequently create an undue concentration of poverty at the project compared to non-RAD PBV projects, a PHA may request a waiver from HUD for the covered project. The waiver will apply the alternative requirements applicable to the pre-conversion residents to new admission families.

HACC Policy

The PHA will not request waivers from HUD to apply the alternative requirements applicable to pre-conversion residents to new admission families.

If a participating family who was admitted after the RAD conversion receive zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify HACC of the change and request an interim reexamination before the expiration of the 180-day period.

Security Deposits [24 CFR 983.259; *RAD PBV Quick Reference Guide 6/20*

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. Otherwise the security deposit requirements for standard PBV apply.

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

HACC Policy

HACC will allow the owner to collect a security deposit amount the owner determines is appropriate.

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 PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

18-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS [Notice PIH 2019-23]

Current PH FSS participants will continue to participate in the PHA's FSS program, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the current fiscal year (FY) PH FSS notice of funding availability (NOFA) to serve those FSS participants who live in units converted to RAD and who will as a result be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program.

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 HCV 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.

At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding.

Current Resident Opportunities and Self-Sufficiency–Service Coordinators (ROSS–SC) program 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.

At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a non-profit or local resident association and this consequence of a RAD conversion may impact those entities.

Any non-RAD PBV units located in the same project are also subject to these requirements.

18-VI.D. RESIDENT PARTICIPATION AND FUNDING [Notice PIH 2019-23]

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 and be eligible for resident participation funding.

18-VI.E. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2019-23]

All in-place tenants at the time of conversion are eligible to remain in the project. Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project. If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family. Any non-RAD PBV units located in the same project are also subject to these requirements.

Following conversion, the standard PBV regulations apply. If the PHA determines that a family is occupying a wrong-size unit, based on the PHA'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 PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

HACC Policy

HACC 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 HACC's determination. HACC 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

Tenant-based voucher assistance

If HACC offers the family a tenant-based voucher, HACC must terminate the housing assistance payments for a wrong-size or accessible unit at the earlier of the expiration of the term of the family's voucher, including any extension granted by HACC, or the date upon which the family vacates the unit. If the family does not move out of the wrong-size unit or accessible unit by the expiration of the term of the family's voucher, HACC must remove the unit from the HAP contract.

If the PHA 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 PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

HACC Policy

When HACC 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, HACC will terminate the housing assistance payments at the expiration of this 30-day period.

HACC 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 983.261]

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 PHA.

Choice Mobility [Notice PIH 2019-23]

If the family wishes to move with continued tenant-based assistance, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with lease requirements, the PHA 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 a voucher or other comparable tenant-based assistance is not immediately available, the PHA 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.

HACC Policy:

Prior to providing notice to the owner to terminate the lease, the family may submit a written request to the PHA for a choice mobility voucher at any time after completing the 12-month occupancy requirement.

The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their 12-month occupancy requirement, their 12-month clock will reset. The family must wait 12 months from the date of move at the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the 12-month clock does not reset.

HACC will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.

Turnover Cap

If as a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD, the PHA may establish a turnover cap. The PHA is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If the PHA chooses to establish a turnover cap and the cap is implemented, the PHA must create and maintain a waiting list in the order requests from eligible households were received.

HACC Policy

As a result of RAD, if the total number of PBV units (including RAD PBV units) administered by HACC exceeds 20 percent of HACC's authorized units under its HCV ACC with HUD, HACC will establish a choice mobility cap. HACC will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.

Families who requested a choice mobility voucher and are denied due to the cap will be given priority the following year when choice mobility vouchers are again issued since the choice mobility list will be organized by the date and time of the family's request.

Emergency Transfers under VAWA [Notice PIH 2017-08]

Except where special consideration is needed for the project-based voucher program, the PHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

HUD requires that the PHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

HACC Policy

When the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking has lived in the unit for less than one year, HACC will provide several options for continued assistance.

HACC will first try to transfer the participant to another PBV unit in the same development or transfer to a different development in either Public Housing or PBV units. HACC will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible. If assistance is transferred to another development, the PHA will give priority to the participant on the other development's waiting list.

If no units are available for an internal transfer to a PBV development or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) if the family is referred through a domestic violence referral for a preference voucher. HACC has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking in both its HCV and public housing programs in order to expedite this process. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, HACC will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where HACC has PBV units. HACC will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to HACC's public housing program. HACC has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking as part of the public housing ACOP in order to expedite this process.

18-VI.F. REEXAMINATIONS [*PBV Quick Reference Guide (10/14)*]

A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, the PHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

18-VI.G. EARNED INCOME DISALLOWANCE [Notice PIH 2019-23]

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 will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time. Any non-RAD PBV units located in the same project are also subject to these requirements.

Under the 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 persons with disabilities is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant, such as 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.

18-VI.H. RESIDENTS' PROCEDURAL RIGHTS [Notice PIH 2019-23]

HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV and to non-RAD PBV units located in the same project beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV require that PHAs provide adequate written notice of termination of the lease, which is:

- A reasonable period of time, but not to exceed 30 days:
 - If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
 - In the event of any drug-related or violent criminal activity or any felony conviction.
- Not less than 14 days in the case of nonpayment of rent
- Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply

18-VI. INFORMAL REVIEWS AND HEARINGS [Notice PIH 2019-23]

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(vi) (See 16-III.C. Informal Hearings for Participants), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an 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.

- For any hearing required under 24 CFR 982.555(a)(1)(i), the contract administrator will perform the hearing in accordance with Chapter 16 Part III: Informal Reviews and Harings, as is the current standard in the program.
- For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving the PHA (as owner) or contract administrator. This hearing requirement does not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA (as owner) or contract administrator.

The owner must give 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). (See Chapter 16)

The owner must provide an opportunity for an informal hearing before an eviction.

PART VII: DETERMINING CONTRACT RENT

18-VII.A. INITIAL CONTRACT RENTS [Notice PIH 2019-23]

RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each PHA's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PIH 2019-23. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located.

PHAs may adjust subsidy (and contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD.

Notwithstanding HUD's calculation of the initial contract rent based on the project's subsidy under the public housing program and any modifications made to the initial contract rent, the initial rents are set at the lower of:

- An amount determined by the PHA, not to exceed 110 percent of the fair market rent (FMR) or the PHA's exception payment standard approved by HUD, or the alternate rent cap in a PHA's MTW agreement minus any utility allowance.
- The reasonable rent
- The rent requested by the owner

18-VII.B. ADJUSTING CONTRACT RENTS [Notice 2019-23; *RAD PBV Quick Reference Guide 6/20*; PHA Asset Repositioning "How to Apply OCAF for RAD PBV" Webinar]

RAD PBV contract rents will be adjusted annually only by HUD's operating cost adjustment factor (OCAF) at each anniversary of the HAP contract, subject to the availability of appropriations for each year of the contract term. As such, section 8(o)(13)(I) of the 1937 Act, and 24 CFR 983.301 and 983.302, concerning rent determinations, do 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 the contract administrator in accordance with 24 CFR 983.303.

Contract rents may not exceed the reasonable rent, with the exception that the contract rent for each unit may not be reduced below the initial contract rent under the initial HAP contract.

However, the rent to owner may fall below the initial contract rent in the following situations:

- To correct errors in calculations in accordance with HUD requirements

- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 983.55 (prohibition of excess public assistance)
- If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant

The contract rent adjustment will be the lesser of:

- The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the *Federal Register*; or
- The reasonable rent

The administering PHA (or independent entity, if the project is PHA-owned) is responsible for processing rent adjustments, at each contract anniversary date, in accordance with the prevailing OCAF.

At least 120 days before the contract anniversary date, HUD recommends that the owner submit the OCAF rent adjustment worksheet (Form HUD-9625) to the PHA administering the PBV assistance (or the independent entity). The PHA will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303. If rents would be unreasonable following application of the requested OCAF, then the rent can only be increased up to the reasonable rent. The approved rent adjustment will go into effect and the new rents to owner will take effect on the date of the contract anniversary.

Rent Decrease

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

18-VII.C. UTILITY ALLOWANCES [Notice 2019-23; *PBV Quick Reference Guide 10/14*]

When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The CHAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, a PHA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract.

After conversion, the PHA may maintain a utility allowance schedule for tenant-paid utilities in accordance with standard PBV and HCV utility allowance regulations at 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.517 respectively. The PHA may instead, however, apply site specific utility allowances HUD waived the requirement for the standard PBV program that the HCV utility allowance be used. If a site-specific utility allowance is used, the utility allowance is applicable to non-RAD PBV units in the project and is calculated consistent with Notice H 2015 04.

HACC Policy

HACC will use the HCV utility allowance schedule for the RAD PBV developments.

18-VII.D. 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 PHA, except rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

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 PHA 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 PHA. The comparability analysis may be performed by PHA 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.

PHA-Owned Units

For PHA-owned units, the amount of the reasonable rent must be determined by an independent entity approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

PART VIII: PAYMENTS TO OWNER

18-VIII.A. HOUSING ASSISTANCE PAYMENTS

During the term of the HAP contract, the PHA 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 PHA agree on a later date.

Except for discretionary vacancy payments, the PHA 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 PHA 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.

18-VIII.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 PHA determines that the vacancy is the owner's fault.

HACC Policy

If HACC determines that the owner is responsible for a vacancy and as a result is not entitled to keep the housing assistance payment, HACC will notify the landlord of the amount of housing assistance payment that the owner must repay. HACC will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA 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 PHA 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 PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

HACC Policy

HACC will not make offer vacancy payments.

18-VIII.C. TENANT RENT TO OWNER [24 CFR 983.353; Notice PIH 2019-23]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA 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 PHA 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 PHA. The owner must immediately return any excess payment to the tenant.

Initial Certifications [Notice PIH 2019-23]

For the initial certification, the PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate HAP and tenant rent for the PBV program. The PHA will use this amount until the effective date of the earlier of the family's first regular or interim recertification following the conversion. At that point, the PHA will use the family's TTP based on the recertification and the applicable utility allowance (HCV or RAD PBV site-based, as applicable) to determine PBV HAP and tenant rent. Any non-RAD PBV units located in the same project are subject to the same requirements.

Tenant and PHA 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 PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA 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 PHA 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 PHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If the PHA chooses to pay the utility supplier directly, the PHA must notify the family of the amount paid to the utility supplier.

HACC Policy

HACC will make utility reimbursements directly to the family.

18-VIII.D. PHASE-IN OF TENANT RENT INCREASES [Notice PIH 2019-23]

For in-place tenants, if the amount the tenant would pay for rent and utilities (TTP) would increase by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over three years. To implement this provision, HUD is waiving section 3(a)(1) of the 1937 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. For families who were on EID at the time of conversion to RAD PBV, upon the expiration of the EID, the rent adjustment is not subject to rent phase-in.

The PHA must communicate this policy in writing to affected residents.

PHA Policy

The PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. The PHA will implement a three-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or \$25 purely as a result of the conversion as follows:

Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid TTP and the calculated PBV TTP. (If the family was paying flat rent immediately prior to conversion, the PHA will use the flat rent amount to calculate the phase-in for Year 1.)

Year 2: Year 2 annual recertification (AR) and any interim recertification (IR): 50 percent of the difference between the most recently paid TTP and the calculated PBV TTP

Year 3: Year 3 AR and all subsequent recertifications: Full calculated TTP

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.

The PHA will communicate the PHA's phase-in policy in writing to the family at the time the PHA first determines that the family qualifies for a rent phase-in. Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

18.VIII.E. 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.

EXHIBIT 18-1: RAD PBV DEVELOPMENT INFORMATION

Date: 06/01/2020

DEVELOPMENT INFORMATION

Development Name: Hillside Manor Apartments

Address: 2889 SE Hillside Ct, Milwaukie, OR 97222

Owner Information: Hillside Manor Limited Partnership

Property Management Company: Quantum Residential Property Management. Email: HillsideManor@QResInc.com and Phone: 503-344-4540

PHA-Owned: Yes

Mixed-Finance Development: Yes

| Permanent Sources | Total | Residential | Term | Amort | Int Rate | Lender/Investor |
|---|-------------------|-------------------|------|-------|----------|-----------------|
| LIHTC Equity | 9,951,961 | 9,951,961 | | | | US Bank |
| Res Perm Mortgage -OAHTC | 3,600,000 | 3,600,000 | 20 | 30 | 1.00% | Banner |
| Res Perm Mortgage -NonOAHTC | 1,982,933 | 1,982,933 | 20 | 30 | 5.38% | Banner |
| | - | - | | | | |
| GP Equity | 100 | 100 | | | | |
| HACC Sponsor Loan | 1,380,669 | 1,380,669 | | | | |
| OHCS Preservation Lottery-Backed Bond | 3,428,811 | 3,428,811 | 30 | 30 | 1.00% | |
| Acquisition Funds (5%) | 543,000 | 543,000 | - | - | 0.00% | |
| Cash Flow from Operations | 60,000 | 60,000 | | | | |
| HACC Capital Funds + Replacement Housing Factor | 847,421 | 847,421 | 50 | - | 2.07% | |
| Seller Carryback | 10,317,000 | 10,317,000 | 50 | - | 2.07% | |
| Deferred Developer Fee | 1,108,000 | 1,108,000 | | | 1.00% | |
| TOTAL SOURCES | 33,219,894 | 33,219,894 | | | | |

HAP CONTRACT

Closing Date: 1/1/2021

List Which RAD Notice Applies to the Project: PIH 2019-23]

Effective Date of Contract: Project has two separate HAP Contracts with separate effective dates as follows:

06/01/2020 HAP Contract (Eminent Domain 5 PBV plus 25 Enhanced PBV)

01/01/2021 RAD HAP Contract (70 RAD PBV)

HOTMA Requirements: "Post-HOTMA."

Term of HAP Contract: 20 Year Contracts

Expiration Date of Contract: 06/01/2040 and 01/01/2041 PBV UNITS

| | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR | 5 BR | Total |
|--|------|---------|---------|------|------|------|-------|
| # of RAD Units | 0 | 70 | 0 | 0 | 0 | 0 | 70 |
| RAD Initial Contract Rent | | \$742 | | | | | |
| # of PBV Units | 0 | 1 | 0 | 0 | 0 | 0 | 5 |
| Eminent Domain PBV Initial Contract Rent | | \$1,250 | | | | | |
| # of Enhanced PBV Units | 0 | 25 | 4 | 0 | 0 | 0 | 25 |
| Enhanced PBV Initial Contract Rent | | \$1,324 | \$1,645 | | | | |
| Total Units | 0 | 96 | 4 | | | | 100 |

Unit Designation: Fixed

Accessible Units and Features: Hillside Manor is in compliance with Section 504 which requires that 5% of the units must be accessible to individuals with mobility impairments and 2% must be accessible to individuals with sensory impairments. There are **12** ADA parking spaces in the lot. The units meeting these requirements are as follows:

| Address | Bedroom Size | ADA | Sensory |
|---------|--------------|-----|---------|
| #219 | 685 sf | NO | YES |
| #220 | 691 sf | YES | YES |
| #221 | 692 sf | YES | NO |
| #222 | 691 sf | YES | NO |
| #312 | 533 sf | YES | NO |
| #313 | 532 sf | YES | NO |
| #402 | 523 sf | YES | NO |
| #219 | 685 sf | NO | YES |
| #220 | 691 sf | YES | YES |
| #221 | 692 sf | YES | NO |
| #222 | 691 sf | YES | NO |
| #312 | 533 sf | YES | NO |
| #313 | 532 sf | YES | NO |

Target Population: Elderly and/or Disabled

Excepted Units (Notice PIH 2012-32, REV-2 Developments Only): NA

Supportive Services: Resident Services provided with focus on services for elderly and disabled.

Elderly Units: Floating all 100 are elderly and/or disabled

Disabled Units Floating all 100 are elderly and/or disabled

WAITING LIST AND SELECTION

Waiting List Type: Site-based waiting list merged with original Public Housing wait list for Hillside Manor.

Preferences: Elderly and disabled

Preference Verification: Same as HCV with any differences noted in Section 18.1.C. of this policy.

For the PBV program, is the income limit the same as the HCV program? Same as HCV, see Chapter 3.

OCCUPANCY

Subsidy Standards: Same as HCV; see Chapter 5.

Utilities: All provided as part of rent.

Vacancy Payments: None as outlined in accordance with HAP contract Exhibit A.

Chapter 19

SPECIAL PURPOSE VOUCHERS

INTRODUCTION

Special purpose vouchers are specifically funded by Congress in separate appropriations from regular HCV program funding in order to target specific populations. Special purpose vouchers include vouchers for the following programs:

- Family Unification Program (FUP)
- Foster Youth to Independence (FYI) program
- Veterans Affairs Supportive Housing (VASH)
- Mainstream
- Non-Elderly Disabled (NED)
- Stability Voucher program

PHA Policy

The PHA will administer the following types of special purpose vouchers: FYI, VASH, Mainstream, Emergency Housing Vouchers (EHV) and Stability Vouchers.

This chapter describes HUD regulations and PHA policies for administering special purpose vouchers. The policies outlined in this chapter are organized into five sections, as follows:

Part I: Family Unification Program (FUP)

Part II: Foster Youth to Independence (FYI) program

Part III: Veterans Affairs Supportive Housing (VASH)

Part IV: Mainstream voucher program

Part V: Non-Elderly Disabled (NED) vouchers

Part VI: Stability Voucher program

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to special purpose vouchers.

PART I: FAMILY UNIFICATION PROGRAM (FUP)

19-I.A. PROGRAM OVERVIEW [Fact Sheet, Housing Choice Voucher Program Family Unification Program (FUP)]

Overview

The Family Unification Program (FUP) was authorized by Congress in 1990 to help preserve and reunify families. PHAs that administer the program provide vouchers to two different populations—FUP families and FUP youth.

Families eligible for FUP are families for whom the lack of adequate housing is a primary factor in:

- The imminent placement of the family’s child or children in out-of-home care; or
- The delay in the discharge of the child or children to the family from out-of-home care.

There is no time limitation on FUP family vouchers, and the family retains their voucher as long as they are HCV-eligible. There is no requirement for the provision of supportive services for FUP family vouchers.

Youth eligible for FUP are those who:

- Are at least 18 years old and not more than 24 years of age;
- Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act at age 16 and older; and
- Are homeless or at risk of becoming homeless.

FUP youth vouchers are limited by statute to a period between 36 and 60 months of housing assistance. Supportive services must also be provided to FUP-eligible youth by the Public Child Welfare Agency (PCWA) or by another agency or organization under contract with the PCWA for the period of time defined in the notice or Notice of Funding Availability/Opportunity (NOFA/O) for which funding was made available.

PHAs that wish to administer FUP vouchers must apply to HUD by submitting an application under an active Notice of Funding Opportunity (NOFO). While the FUP program is administered in accordance with HCV regulations, the FUP NOFOs issued by HUD provide specific program information and requirements.

In order to administer the program, the PHA must also form a partnership with a local PCWA who is responsible for determining if the family or youth meets FUP eligibility requirements and referring them to the PHA. Once the referral is received, the PHA is responsible for placing the FUP family or youth on the PHA’s waiting list and determining whether they are eligible to receive assistance under the PHA’s HCV program.

Assigning Vouchers [FUP FAQs]

The PHA may, but is not required to, assign a specific number or percentage of FUP vouchers for FUP youths and FUP families. Unless the PHA assigns a specific number or percentage of FUP vouchers to a designated FUP population, the PHA must serve any referrals (youths or families) that meet all program eligibility requirements up to the PHA's designated FUP program size.

PHA Policy

The PHA has not designated any specific number or percentage of FUP vouchers for youths or families. The PHA will serve all referrals that meet program eligibility requirements, up to the PHA's FUP voucher allocation.

19-I.B. PUBLIC CHILD WELFARE AGENCY (PCWA)

Families and youth do not apply directly to the PHA for FUP vouchers. They are instead referred by a PCWA with whom the PHA has entered into a Memorandum of Understanding (MOU). The partnering PCWA initially determines whether the family or youth meets the FUP program eligibility requirements listed in 19-I.C. and 19-I.D. and then refers those families or youths to the PHA.

HUD strongly encourages PHAs and PCWAs to make decisions collaboratively on the administration of the program and to maintain open and continuous communication. The PCWA must have a system for identifying FUP-eligible youth within the agency's caseload and for reviewing referrals from a Continuum of Care (COC) if applicable.

PHA Policy

The PHA has entered into an MOU with the following partnering organizations *[insert names of public child welfare agency (PCWA), continuum of care, and any other partnering organizations]*.

Supportive Services

The PCWA must provide supportive services for the period of time defined in the notice or NOFA/O for which the funding was made available to all FUP-eligible youth regardless of their age. The MOU between the PHA and the PCWA should identify the period of time in which supportive services will be provided.

PHA Policy

The PCWA will provide supportive services for all FUP youth for a period of 36 months. Supportive services may be provided to FUP-eligible youth by the PCWA or by another agency or organization under agreement or contract with the PCWA, including the PHA. The organization providing the services and resources must be identified in the MOU. The following services must be offered:

- Basic life skills information or counseling on money management, use of credit, housekeeping, proper nutrition or meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance or referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
- Providing such assurances to owners of rental property as are reasonable and necessary to assist a FUP-eligible youth to rent a unit with a FUP voucher;
- Job preparation and attainment counseling (where to look and how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED), or attendance or financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

PHA Policy

Additional supportive services will not be offered.

A FUP-eligible youth cannot be required to participate in these services as condition of receipt of the FUP voucher.

19-I.C. FUP FAMILY VOUCHER ELIGIBILITY CRITERIA

FUP family assistance is reserved for eligible families that the PCWA has certified are a family for whom a lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care, or
- The delay in the discharge of the child or children to the family from out-of-home care.

Lack of adequate housing means the family meets any one of the following conditions:

- Living in substandard housing, which refers to a unit that meets any one of the following conditions:
 - Does not have operable indoor plumbing
 - Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth
 - Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth
 - Does not have electricity, or has inadequate or unsafe electrical service
 - Does not have a safe or adequate source of heat
 - Should, but does not, have a kitchen
 - Has been declared unfit for habitation by an agency or unit of government, or in its present condition otherwise endangers the health, safety, or well-being of the family or youth
 - Has one or more critical defects, or a combination of intermediate defects in sufficient number or to the extent that it requires considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair, or from serious damage to the structure
- Being homeless as defined in 24 CFR 578.3
- Living in a unit where the presence of a household member with certain characteristics (i.e., conviction for certain criminal activities) would result in the imminent placement of the family's child or children in out-of-home care, or the delay in the discharge of the child or children to the family from out-of-home care
- Living in housing not accessible to the family's disabled child or children due to the nature of the disability

- Living in an overcrowded unit, which is defined as living in a unit where one of the following conditions has been met:
 - The family is separated from its child or children and the parents are living in an otherwise standard housing unit, but, after the family is reunited, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or
 - The family is living with its child or children in a unit that is overcrowded for the entire family and this overcrowded condition may result, in addition to other factors, in the imminent placement of its child or children in out-of-home care.
 - For purposes of this definition, the determination as to whether the unit is overcrowded is made in accordance with the PHA subsidy standards in Chapter 5, Part III of this policy.

Since HUD does not define *imminent placement*, the partnering PCWA may use its discretion to determine whether the potential out of home placement of the family's child or children is imminent [FUP FAQs].

19-I.D. FUP YOUTH VOUCHER ELIGIBILITY CRITERIA

While FUP family vouchers operate as regular HCVs after the family is referred from the PCWA, there are several aspects of the FUP youth vouchers that make them distinct from the FUP family vouchers and from regular HCVs.

Eligibility Criteria

A FUP-eligible youth is a youth the PCWA has certified:

- Is at least 18 years old and not more than 24 years of age (has not yet reached their 25th birthday);
 - The FUP youth must be no more than 24 years old at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Has left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
 - Foster care placement can include, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576.
- Is homeless or at risk of becoming homeless at age 16 or older;
 - *At risk of being homeless* is fully defined at 24 CFR 576.2.
 - o This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution).
 - o Therefore, youth being discharged from an institution may be eligible for a FUP voucher [FUP FAQs].
- Has an annual income at or below 30 percent of area median income; and
- Does not have sufficient resources or support networks (e.g., family, friends, faith-based or other social networks) immediately available to prevent them from moving to a supervised publicly or privately operated shelter designed to provide temporary living arrangements.

19-I.E. ASSISTANCE PERIOD [FR Notice 1/24/22]

Maximum Assistance Period

Although there is no time limit on FUP family vouchers, FUP youth vouchers are limited by statute. Unless the FUP youth meets an exception outlined below, after 36 months of assistance, the FUP youth voucher must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the 36-month limitation.

If the FUP youth does meet the requirements outlined below, the statutory limit on FUP assistance is a total of 60 months of FUP voucher assistance [FR Notice 1/24/22].

Extension of Assistance

FUP youth who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

While FUP youth cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FUP youth must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

Statutory Exceptions

A FUP youth will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in the PHA's FSS program if they certify that they meet one of the exceptions below:

- The FUP youth is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

PHA Policy

The PHA defines *incapacitated person* as **[insert definition under state and local law]**.

The PHA will apply this exception in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

The child or incapacitated person is not required to reside in the household in order for the youth to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part-time may qualify the youth for this exception.

- The FUP youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

PHA Policy

The PHA will define *regular and active participation* in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

- The FUP youth is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

PHA Policy

The PHA will apply this requirement in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

A FUP youth that meets one of the above exceptions must still be offered an opportunity to enroll in the PHA's FSS program (if it is available to them) and receive any supportive services available to FUP youth. A FUP youth may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

Education, Workforce Development, or Employment Activities

If a PHA that carries out an FSS program is unable to offer a FUP youth an FSS slot during their first 36 months of receiving FUP youth assistance, the youth is considered to have been “unable to enroll” in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- The youth was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

PHA Policy

The PHA will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate’s degree, bachelor’s degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment.

- The youth was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

PHA Policy

Youth must be enrolled in education activities on at least a half-time basis, as defined by the institution that they attend. However, the PHA may make exceptions to this requirement if the youth is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where the youth is enrolled.

- The youth was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102). The term *career pathway* means a combination of rigorous and high-quality education, training, and other services that:
 - Aligns with the skill needs of industries in the economy of the state or regional economy involved;
 - Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) (referred to individually in this Act as an *apprenticeship*, except in section 3226 of this title);
 - Includes counseling to support an individual in achieving the individual’s education and career goals;
 - Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
 - Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;
 - Enables an individual to attain a secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential; and
 - Helps an individual enter or advance within a specific occupation or occupational cluster.
- The youth was employed.

PHA Policy

The PHA will consider the youth to be employed if they work a minimum of 20 hours per week. The PHA may make exceptions to this requirement if the youth’s hours are reduced due to circumstances beyond their control or the youth must temporarily reduce their work hours due to a verified family emergency.

FSS Enrollment at 24 Months

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, HUD encourages the PHA to remind the youth at the 24-month reexamination of the education, workforce development, and employment requirements described above so that the youth has enough time to meet these requirements prior to the expiration of the 36-month time period for FUP assistance.

PHA Policy

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, the PHA will remind the youth at their second regular reexam of the education, workforce development, and employment requirements described above.

FSS Enrollment Between 36 and 48 Months

If an FSS slot becomes available between the 36-month and 48-month mark:

- The PHA must offer the slot to a FUP youth who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the youth previously declined an FSS slot because they met one of the statutory exceptions).
- The PHA must work with the youth to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the youth is engaged in and any statutory exceptions that apply to the youth, as well as the remaining time on their voucher.
- If the FUP youth accepts the FSS slot, the PHA must work with the youth to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FUP youth is offered an FSS slot prior to the 36-month mark, the youth:

- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).
- Will not be considered to have been “unable to enroll” in the FSS program as described above, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

FSS Enrollment After 48 Months

The PHA may, but is not required to, offer a FUP youth an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the youth will have already received their second and final extension.

PHA Policy

If an FSS slot becomes available between the 48 and 60-month marks, the PHA will not offer the FSS slot to a FUP youth.

Extensions of Assistance

At the 36-month and 48-month reexamination, the PHA must extend FUP youth assistance if the youth is participating in and in compliance with the FSS program as long as the youth is still eligible for the HCV program.

In any case, the FUP youth cannot receive more than a total of 60 months of FUP youth voucher assistance, even if the FSS Contract of Participation time period extends beyond the voucher 60-month mark.

No FSS Program or Unable to Enroll in FSS

If a PHA does not carry out an FSS program or the FUP youth has been unable to enroll in the program during the first 36 months of receiving FUP assistance, the FUP youth is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the youth engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the youth may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

Verification Prior to Annual Reexam

In order to provide an extension of assistance, the PHA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. The PHA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, the PHA must provide the FUP youth written notification informing them that they may receive an extension of their FUP assistance and providing instructions on how the youth may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the 36-month or 48-month time periods, as applicable, to allow the FUP youth to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for the PHA to conduct an annual reexamination prior to the expiration of the FUP assistance.

PHA Policy

The PHA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FUP youth's scheduled annual reexamination. The PHA will not verify compliance at the end of the 60-month time period.

The PHA will provide each FUP youth on the PHA's program with a written notification informing them that they may receive an extension of their FUP assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexam date. When necessary, the PHA will provide this notification in a format accessible to FUP youth with disabilities and in a translated format for FUP youth with limited English proficiency in accordance with Chapter 2.

The PHA will use the following verification methods to verify a FUP youth's eligibility for voucher extensions:

To verify compliance with the FSS requirement, the PHA will examine its records to confirm, or obtain confirmation from the PHA's FSS program staff, that the FUP youth participant is in compliance with FSS program requirements and has not been terminated from the FSS program.

To meet the education, workforce development, or employment requirement, the PHA will verify that the FUP youth was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of 36-month or 48-month time period, as applicable.

Due to the timing of when the PHA verifies compliance and conducts the annual reexamination, the FUP youth may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FUP/FYI youth will still be considered to have met the requirements.

In order for the FUP youth to meet one of the statutory exceptions described above, the youth must submit a certification to the PHA that they meet one of these exceptions. This certification is the only documentation that the FUP youth must submit in order to demonstrate that they meet one of the statutory exceptions.

A FUP youth who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FUP youth may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the PHA determines that the youth meets one of the statutory conditions, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the youth is still eligible for the HCV program, the PHA must provide the FUP youth the extension of voucher assistance.

Termination of Assistance for Failure to Meet Conditions

Failure of the FUP youth to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FUP assistance prior to the annual reexam.

If the FUP youth does not meet any of the conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FUP youth voucher must be terminated once the youth reaches this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the youth entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the youth, not the number of months that the youth is in the FUP youth program. Prior to termination, the PHA must offer the FUP youth the opportunity to request an informal hearing, in accordance with Chapter 16.

19-I.F. REFERRALS AND WAITING LIST MANAGEMENT

Referrals

The PCWA must establish and implement a system to identify FUP-eligible families and youths within the agency's caseload and make referrals to the PHA. The PCWA must certify that the FUP applicants they refer to the PHA meet FUP eligibility requirements. The PHA is not required to maintain full documentation that demonstrates the family's or youth's FUP eligibility as determined by the PCWA but should keep the referral or certification from the PCWA.

PHA Policy

As part of the MOU, the PHA and PCWA have identified staff positions to serve as lead FUP liaisons. These positions will be responsible for transmission and acceptance of FUP referrals. The PCWA must commit sufficient staff and resources to ensure eligible families and youths are identified and determined eligible in a timely manner.

When FUP vouchers are available, the PHA liaison responsible for acceptance of referrals will contact the PCWA FUP liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison will provide the PHA with a list of eligible referrals include the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating the youth or family is FUP-eligible.

The PHA will maintain a copy of the referral or certification from the PCWA in the participant's file along with other eligibility paperwork.

A PHA must serve any referrals (youths or families) that meet all program eligibility requirements. If a PHA determines that it has received a sufficient number of referrals from the PCWA so that the PHA will be able to lease all FUP vouchers awarded, the PHA may request that the PCWA suspend transmission of referrals. If the PHA determines that additional referrals will be needed after it has made such a request, the PHA may request that the PCWA resume transmission of referrals [Notice PIH 2011-52].

Waiting List Placement

A family that is already participating in the regular HCV program cannot be transferred to a FUP voucher.

Once a referral is made, the PHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on the PHA's HCV waiting list. Applicants already on the PHA's HCV waiting list retain the order of their position on the list. Applicants not already on the PHA's HCV waiting list must be placed on the HCV waiting list.

If the PHA's HCV waiting list is closed, the PHA must open its HCV waiting list in order to accept new FUP applicants. If necessary, the PHA may open its waiting list solely for FUP applicants, but this information must be included in the PHA's notice of opening its waiting list (see section 4-II.C., Opening and Closing the Waiting List of this administrative plan).

PHA Policy

Within 10 business days of receiving the referral from the PCWA, the PHA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

Referrals who are already on the list will retain their position and the list will be notated to indicate the family or youth is FUP-eligible.

For those referrals not already on the waiting list, the PHA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, the PHA will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FUP-eligible.

Waiting List Selection

The PHA selects FUP-eligible families or youths based on the PHA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

19-I.G. PHA HCV ELIGIBILITY DETERMINATION

Once a FUP-eligible family or youth is selected from the HCV waiting list, the PHA must determine whether the family or youth meets HCV program eligibility requirements. Applicants must be eligible under both FUP family or youth eligibility requirements, as applicable, and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to the PHA on the family's criminal history.

PHA Policy

Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to the PHA.

The PHA will consider the information in making its eligibility determination in accordance with the PHA's policies in Chapter 3, Part III.

Additional FUP Eligibility Factors [FUP FAQs]

For FUP family vouchers, the family must remain FUP-eligible through lease-up.

- If, after a family is referred by the PCWA but prior to issuing a family FUP voucher, the PHA discovers that the lack of adequate housing is no longer a primary factor for the family not reunifying, the FUP voucher may not be issued to the family.
- Similarly, if the FUP voucher has already been issued before the PHA discovers that the reunification will not happen, but the family has not yet leased up under the voucher, the PHA must not execute the HAP contract, as the family is no longer FUP-eligible.

FUP-eligible youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a FUP youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FUP youth voucher.

PHA Policy

Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by the PHA in writing following policies in Section 3-III.F., including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

19.I.H. LEASE UP [FR Notice 1/24/22]

Once the PHA determines that the family or youth meets HCV eligibility requirements, the family or youth will be issued a FUP voucher in accordance with PHA policies.

During the family briefing, PHAs must inform the FUP youth of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the PHA has an FSS program); and
- Supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FUP youth assistance.

PHA Policy

Eligible applicants will be notified by the PHA in writing following policies in Section 3-III.F. of this administrative plan. FUP families will attend a standard HCV briefing in accordance with PHA policies in Part I of Chapter 5 of this administrative plan. FUP youth will be briefed individually. The PHA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 5 but will also provide an explanation of the required items listed above, as well as discussing supportive services offered by the PCWA.

For both FUP youth and FUP families, vouchers will be issued in accordance with PHA policies in Chapter 5 Part II, except that the PHA will consider one additional 30-day extension beyond the first automatic extension for any reason, not just those listed in the policy in Section 5-II.E.

Once the family or youth locate a unit, the PHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the PHA's policies (including, but not limited to: HQS inspection, determination of rent reasonableness, etc.).

19-I.I. TERMINATION OF ASSISTANCE

General Requirements

With the exception of terminations of assistance for FUP youth after the statutorily required time period, terminations of FUP assistance are handled in the same way as the regular HCV program. Termination of a FUP voucher must be consistent with regulations for termination in 24 CFR Part 982, Subpart L and be in compliance with PHA policies (Chapter 12).

If the person who qualifies for the FUP voucher passes away, the family retains the FUP voucher. In the case of a FUP-youth voucher, assistance will terminate after the statutorily required time period, even if the FUP-eligible youth is no longer included in the household.

If the person who qualifies for the FUP voucher moves, the remaining family members may keep the FUP voucher based on PHA policy (see administrative plan, Section 3-I.C., Family Breakup and Remaining Member of Tenant Family).

FUP Family Vouchers

If parents lose their parental rights or are separated from their children after voucher lease-up (or their children reach adulthood), the family is still eligible to keep their FUP assistance, as the regulations do not permit HCV termination for a family losing parental rights or the children reaching adulthood. However, the PHA may transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household.

PHA Policy

The PHA will transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household and there is no prospect of any minor child being returned to the household.

If the PHA has no regular HCV vouchers available at the time this determination is made, including if no vouchers are available due to lack of funding, the PHA will issue the family the next available regular HCV voucher after those being issued to families residing in PBV units claiming Choice Mobility.

FUP Youth Vouchers

A PHA cannot terminate a FUP youth's assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FUP youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of a FUP youth voucher holder to regular HCV assistance upon the expiration of the statutorily required time period. However, the PHA may issue a regular HCV to FUP youth if they were selected from the waiting list in accordance with PHA policies and may also adopt a preference for FUP youth voucher holders who are being terminated for this reason.

PHA Policy

The PHA will not provide a selection preference on the PHA's HCV waiting list for FUP youth who are terminated due to the time limit on assistance.

Upon the expiration of the statutorily required time period, a FUP youth voucher holder who has children and who lacks adequate housing may qualify for a FUP family voucher provided they are referred by the PCWA as an eligible family and meet the eligibility requirements for the PHA's HCV program.

9-I.J. FUP PORTABILITY

Portability for a FUP family or youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for a FUP family or youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

A FUP family or youth does not have to port to a jurisdiction that administers FUP.

If the receiving PHA administers the FUP voucher on behalf of the initial PHA, the voucher is still considered a FUP voucher regardless of whether the receiving PHA has a FUP program.

If the receiving PHA absorbs the voucher, the receiving PHA may absorb the incoming port into its FUP program (if it has one) or into its regular HCV program (if the receiving PHA has vouchers available to do so) and the family or youth become regular HCV participants. In either case, when the receiving PHA absorbs the voucher, a FUP voucher becomes available to the initial PHA.

Considerations for FUP Youth Vouchers

If the voucher is a FUP youth voucher and remains such upon lease-up in the receiving PHA's jurisdiction, termination of assistance must still take place once the youth has received assistance for the statutorily required time period. If the receiving PHA is administering the FUP youth voucher on behalf of the initial PHA, the two PHAs must work together to initiate termination upon expiration of the statutorily required time period.

19-I.K. PROJECT-BASING FUP VOUCHERS [Notice PIH 2017-21; FR Notice 1/24/22]

The PHA may project-base FUP vouchers without HUD approval in accordance with Notice PIH 2017-21, FR Notice 1/24/22, and all statutory and regulatory requirements for the PBV program. Project-based FUP vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

The PHA may limit PBVs to one category of FUP-eligible participants (families or youth) or a combination of the two.

While FUP vouchers can be used for either families or youth, a PBV unit may only be counted towards the PHA's 10 percent exception authority under the program cap and the project's income-mixing requirement if the FUP PBV assistance is provided on behalf of an eligible youth. The PHA must amend its administrative plan to include the limitation of these FUP PBV units to eligible youth.

PHA Policy

The PHA will not project-base FUP vouchers. All FUP vouchers will be used to provide tenant-based assistance.

PART II: FOSTER YOUTH TO INDEPENDENCE INITIATIVE

19-II.A. PROGRAM OVERVIEW [Notice PIH 2020-28; Notice PIH 2023-04; FR Notice 1/24/22]

The Foster Youth to Independence (FYI) initiative was announced in 2019. The FYI initiative allows PHAs who partner with a Public Child Welfare Agency (PCWA) to request targeted HCVs to serve eligible youth with a history of child welfare involvement that are homeless or at risk of being homeless. Rental assistance and supportive services are provided to qualified youth for a period of between 36 and 60 months.

Funding is available either competitively through an FYI NOFA or noncompetitively on a rolling basis in accordance with the application requirements outlined in Notice PIH 2020-28, Notice PIH 2021-26, or Notice PIH 2023-04, as applicable. Under the noncompetitive process, PHAs are limited to 25 vouchers in a fiscal year with the ability to request additional vouchers. Where the PHA has a combined FYI and/or FUP size of no more than 10 vouchers, the PHA may request FYI vouchers with at least 50 percent utilization of its FUP and/or FYI vouchers. Where the PHA has a combined FYI and/or FUP size of 11 or more vouchers, the PHA may request FYI vouchers with 90 percent or greater utilization of its FUP and/or FYI vouchers. For competitive awards, the number of vouchers is dependent on PHA program size and need.

19-II.B. PARTNERING AGENCIES [Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar]

Public Child Welfare Agency (PCWA)

The PHA must enter into a partnership agreement with a PCWA in the PHA's jurisdiction in the form of a Memorandum of Understanding (MOU) or letter of intent. The PCWA is responsible for identifying and referring eligible youth to the PHA and providing or securing a commitment for the provision of supportive services once youth are admitted to the program.

PHA Policy

The PHA will implement a Foster Youth to Independence (FYI) program in partnership with *[insert name(s) of PCWA(s)]*.

The PCWA is responsible for:

- Identifying FYI-eligible youth;
- Developing a system of prioritization based on the level of need of the youth and the appropriateness of intervention;
- Providing a written certification to the PHA that the youth is eligible; and
- Providing or securing supportive services for 36 months.

Continuum of Care (CoC) and Other Partners

HUD strongly encourages PHAs to add other partners into the partnership agreement with the PCWA such as state, local, philanthropic, faith-based organizations, and the CoC, or a CoC recipient it designates.

PHA Policy

In addition to the PCWA, the PHA will implement the FYI program in partnership with *[insert names of any other partners the PHA designates in the partnership agreement]*.

19-II.C. YOUTH ELIGIBILITY CRITERIA [Notice PIH 2023-04; FYI Q&As; FYI FAQs]

The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. As determined by the PCWA, eligible youth:

- Are at least 18 years of age and not more than 24 years of age (have not yet reached their 25th birthday);
 - Youth must be no more than 24 years of age at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
 - Placements can include, but are not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576;
- Are homeless or at risk of becoming homeless at age 16 and older;
 - *At risk of being homeless* is fully defined at 24 CFR 576.2.
 - o This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution). Therefore, youth being discharged from an institution may be eligible for an FYI voucher [FYI FAQs].

Eligibility is not limited to single persons. For example, pregnant and/or parenting youth are eligible to receive assistance assuming they otherwise meet eligibility requirements.

19-II.D. SUPPORTIVE SERVICES [Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar; FYI Q&As]

Supportive services may be provided by the PHA, PCWA, or a third party. The PCWA must provide or secure a commitment to provide supportive services for participating youth for the period of time defined in the NOFA/O for which the funding was made available. At a minimum, the following supportive services must be offered:

- Basic life skills information/counseling on money management, use of credit, housekeeping, proper nutrition/meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance/referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
- Providing such assurances to owners of rental property as are reasonable and necessary to assist eligible youth to rent a unit with a voucher;
- Job preparation and attainment counseling (where to look/how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED) or attendance/financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

PHA Policy

Additional supportive services will not be offered.

Since participation in supportive services is optional, but strongly encouraged, an FYI participant may decline supportive services.

19-II.E. REFERRALS AND WAITING LIST MANAGEMENT [Notice PIH 2023-04; FYI Updates and Partnering Opportunities Webinar FYI FAQs]

Referrals

The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. Once the PCWA sends the PHA the referral certifying the youth is program-eligible, the PHA determines HCV eligibility.

The PCWA must have a system for identifying eligible youth within the agency's caseload and reviewing referrals from other partners, as applicable. The PCWA must also have a system for prioritization of referrals to ensure that youth are prioritized for an FYI voucher based upon their level of need and appropriateness of the intervention.

Referrals may come from other organizations in the community who work with the population, but the PCWA must certify that the youth meets eligibility requirements, unless the PCWA has vested another organization with this authority.

The PHA is not required to maintain full documentation that demonstrates the youth's eligibility as determined by the PCWA but should keep the referral or certification from the PCWA. The PCWA is not required to provide the PHA with HCV eligibility documents.

PHA Policy

The PHA and PCWA have identified staff positions to serve as lead FYI liaisons. These positions will be responsible for transmission and acceptance of referrals. The PCWA must commit sufficient staff and resources to ensure eligible youths are identified, prioritized, and determined eligible in a timely manner.

When vouchers are available, the PHA liaison responsible for acceptance of referrals will contact the PCWA liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison must provide the PHA with a list of eligible referrals, a completed release form, and a written certification for each referral indicating the referral is eligible. The list will include the name, address, and contact phone number for each adult individual who is being referred.

The PHA will maintain a copy of each certification from the PCWA in the participant's file along with other eligibility paperwork.

Waiting List Placement [Notice PIH 2023-04 and FYI FAQs]

The PHA must use the HCV waiting list for the FYI program. Youth already on the HCV program may not be transferred to an FYI voucher since they are not homeless or at-risk of homelessness.

Once a referral is made, the PHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on the PHA's HCV waiting list. Applicants already on the PHA's HCV waiting list retain the order of their position on the list. Applicants not already on the PHA's HCV waiting list must be placed on the HCV waiting list.

If the PHA's HCV waiting list is closed, the PHA must open its HCV waiting list in order to accept new referrals. The PHA may reopen the waiting list to accept an FYI eligible youth without opening the waiting list for other applicants; however, the requirements at 24 CFR 982.206 for giving public notice when opening and closing the waiting list apply (see section 4-II.C., Opening and Closing the Waiting List of this administrative plan).

PHA Policy

Within 10 business days of receiving the referral from the PCWA, the PHA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

Referrals who are already on the list will retain their position and the list will be notated to indicate the applicant is FYI-eligible.

For those referrals not already on the waiting list, the PHA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, the PHA will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FYI-eligible.

Waiting List Selection

The PHA selects eligible youths based on the PHA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

19-II.F. PHA HCV ELIGIBILITY DETERMINATION [FYI FAQs]

Once an eligible youth is selected from the HCV waiting list, the PHA must determine whether the youth meets HCV program eligibility requirements. Applicants must be eligible under both FYI eligibility requirements and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to the PHA on the youth's criminal history.

PHA Policy

Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to the PHA.

The PHA will consider the information in making its eligibility determination in accordance with the PHA's policies in Chapter 3, Part III.

Additional Eligibility Factors

Youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FYI voucher.

PHA Policy

Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by the PHA in writing following policies in Section 3-III.F, including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

19-II.G. LEASE UP [FR Notice 1/24/22]

Once the PHA determines that the family or youth meets HCV eligibility requirements, the youth will be issued an FYI voucher in accordance with PHA policies.

During the family briefing, PHAs must inform the FYI voucher holder of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the PHA has an FSS program); and
- The supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FYI assistance.

PHA Policy

Eligible applicants will be notified by the PHA in writing following policies in Section 3-III.F. of this policy. FYI youth will be briefed individually. The PHA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 5.

Vouchers will be issued in accordance with PHA policies in Chapter 5, Part II, except that the PHA will consider one additional 30-day extension beyond the first automatic extension for any reason, not just those listed in the policy in Section 5-II.E.

Once the youth locates a unit, the PHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the PHA policy in Chapter 9.

Should a youth fail to use the voucher, the PHA may issue the voucher to another eligible youth if one has been identified [Notice PIH 2023-04].

Turnover [Notice PIH 2023-04]

Awards of FYI Tenant Protection Vouchers (TPVs) continue to be administered under the requirements of Notice PIH 2019-20. This includes turnover requirements and the requirement to inform HUD should a youth not use a voucher or leave the program. For example, FYI TPVs awarded under Notice PIH 2019-20 “sunset” when a youth leaves the program. This means that the PHA cannot reissue FYI TPV assistance issued under that notice to another youth when an initial youth exits the HCV program. HUD does not have the authority to allow the voucher to be used for a youth other than the one identified in the request.

19-II.H. MAXIMUM ASSISTANCE PERIOD [Notice PIH 2023-04 and FYI FAQs; FR Notice 1/24/22]

Vouchers are limited by statute to a total of between 36 months and 60 months of housing assistance. At the end of the statutory time period, assistance must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the limitation. It is not permissible to reissue another FYI TPV to the same youth upon expiration of their FYI assistance.

Participants do not “age out” of the program. A participant may continue with the program until they have received the period of assistance for which they are eligible. Age limits are only applied for entry into the program.

Extension of Assistance

FYI voucher holders who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

While FYI voucher holders cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FYI voucher holders must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

Statutory Exceptions

FYI voucher holders will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in the PHA’s FSS program if they certify that they meet one of the exceptions below:

- The FYI voucher holder is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

PHA Policy

The PHA defines *incapacitated person* as **[insert definition under state and local law]**. The PHA will apply this exception in a manner that provides extensions of FYI assistance to the broadest population possible consistent with the statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

The child or incapacitated person is not required to reside in the household in order for the FYI voucher holder to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part time may qualify the FYI voucher holder for this exception.

- The FYI voucher holder is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

PHA Policy

The PHA will define *regular and active participation* in a manner that provides extensions of FYI voucher holder assistance to the broadest population possible consistent with the statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

- The FYI voucher holder is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

PHA Policy

The PHA will apply this requirement in a manner that provides extensions of FYI voucher holder assistance to the broadest population possible consistent with statutory requirements.

The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

An FYI voucher holder that meets one of the above exceptions must still be offered an opportunity to enroll in the PHA's FSS program (if it is available to them) and receive any supportive services available to FYI voucher holders. An FYI voucher holder may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

Education, Workforce Development, or Employment Activities

If a PHA that carries out an FSS program is unable to offer a FYI voucher holder an FSS slot during their first 36 months of receiving FYI assistance, the FYI voucher holder is considered to have been “unable to enroll” in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- The FYI voucher holder was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

PHA Policy

The PHA will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate’s degree, bachelor’s degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment.

- The FYI voucher holder was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

PHA Policy

The FYI voucher holder must be enrolled in education activities on at least a half-time basis, as defined by the institution which they attend. However, the PHA may make exceptions to this requirement if the FYI voucher holder is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where they are enrolled.

- The FYI voucher holder was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).
- The FYI voucher holder was employed.

PHA Policy

The PHA will consider the FYI voucher holder to be employed if they work a minimum of 20 hours per week. The PHA may make exceptions to this requirement if the FYI voucher holder's hours are reduced due to circumstances beyond their control or the FYI voucher holder must temporarily reduce their work hours due to a verified family emergency.

FSS Enrollment at 24 Months

If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, HUD encourages the PHA to remind the FYI voucher holder at the 24-month reexamination of the education, workforce development, and employment requirements described above so that they have enough time to meet these requirements prior to the expiration of the 36-month time period for FYI assistance.

PHA Policy

If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, the PHA will remind the FYI voucher holder at their second regular reexam of the education, workforce development, and employment requirements described above.

FSS Enrollment Between 36 and 48 Months

If an FSS slot becomes available between the 36-month and 48-month mark:

- The PHA must offer the slot to an FYI voucher holder who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the FYI voucher holder previously declined an FSS slot because they met one of the statutory exceptions).
- The PHA must work with the FYI voucher holder to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the FYI voucher holder is engaged in and any statutory exceptions that apply to the FYI voucher holder, as well as the remaining time on their voucher.
- If the FYI voucher holder accepts the FSS slot, the PHA must work with them to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FYI voucher holder is offered an FSS slot prior to the 36-month mark, the FYI voucher holder:

- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).

- Will not be considered to have been “unable to enroll” in the FSS program, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

FSS Enrollment After 48 Months

The PHA may, but is not required, to offer an FYI voucher holder an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the FYI voucher holder will have already received their second and final extension.

PHA Policy

If an FSS slot becomes available between the 48 and 60-month marks, the PHA will not offer the FSS slot to an FYI voucher holder.

Extensions of Assistance

At the 36-month and 48-month reexamination, the PHA must extend FYI assistance if the FYI voucher holder is participating in and in compliance with the FSS program as long as the FYI voucher holder is still eligible for the HCV program.

In any case, the FYI voucher holder cannot receive more than a total of 60 months of FYI assistance even if the FSS Contract of Participation time period extends beyond the voucher 60-month mark.

No FSS Program or Unable to Enroll in FSS

If a PHA does not carry out an FSS program or the FYI voucher holder has been unable to enroll in the program during the first 36 months of receiving FYI assistance, the FYI voucher holder is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the FYI voucher holder engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the FYI voucher holder may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

Verification Prior to Annual Reexam

In order to provide an extension of assistance, the PHA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. The PHA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, the PHA must provide the FYI voucher holder written notification informing them that they may receive an extension of their FYI assistance and providing instructions on how the FYI voucher holder may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the 36-month or 48-month time periods, as applicable, to allow the FYI voucher holder to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for the PHA to conduct an annual reexamination prior to the expiration of the FYI assistance.

PHA Policy

The PHA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FYI voucher holder's scheduled annual reexamination. The PHA will not verify compliance at the end of the 60-month time period.

The PHA will provide each FYI voucher holder on the PHA's program with a written notification informing them that they may receive an extension of their FYI assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexam date. When necessary, the PHA will provide this notification in a format accessible to FYI voucher holders with disabilities and in a translated format for FYI voucher holders with limited English proficiency in accordance with Chapter 2.

The PHA will use the following verification methods to verify an FYI voucher holder's eligibility for voucher extensions:

To verify compliance with the FSS requirement, the PHA will examine its records to confirm, or obtain confirmation from the PHA's FSS program staff, that the FYI participant is in compliance with FSS program requirements and has not been terminated from the FSS program.

To meet the education, workforce development, or employment requirement, the PHA will verify that the FYI voucher holder was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of the 36-month or 48-month time period, as applicable.

Due to the timing of when the PHA verifies compliance and conducts the annual reexamination, the FYI voucher holder may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FYI voucher holder will still be considered to have met the requirements.

In order for the FYI voucher holder to meet one of the statutory exceptions described above, the FYI voucher holder must submit a certification to the PHA that they meet one of these exceptions. This certification is the only documentation that the FYI voucher holder must submit in order to demonstrate that they meet one of the statutory exceptions.

An FYI voucher holder who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FYI voucher holder may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the PHA determines that the FYI voucher holder meets one of the statutory conditions, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the FYI voucher holder is still eligible for the HCV program, the PHA must provide the FYI voucher holder the extension of voucher assistance.

Termination of Assistance for Failure to Meet Conditions

Failure of the FYI voucher holder to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FYI assistance prior to the annual reexam.

If the FYI voucher holder does not meet any of the statutory conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FYI voucher must be terminated once they reach this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the FYI voucher holder entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the FYI voucher holder, not the number of months that they are in the FYI program. Prior to termination, the PHA must offer the FYI voucher holder the opportunity to request an informal hearing, in accordance with Chapter 16.

19-II.I. TERMINATION OF ASSISTANCE [FYI FAQs]

Termination of a FYI voucher is handled in the same way as with any HCV; therefore, termination of a FYI voucher must be consistent with HCV regulations at 24 CFR Part 982, Subpart L and PHA policies in Chapter 12. Given the statutory time limit that requires FYI vouchers to sunset, a PHA must terminate the youth's assistance once the limit on assistance has expired.

A PHA cannot terminate a FYI youth's assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FYI youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of FYI voucher holders to regular HCV assistance upon the expiration of the limit on assistance. However, the PHA may issue a regular HCV to FYI voucher holders if they were selected from the waiting list in accordance with PHA policies. The PHA may also adopt a waiting list preference for FYI voucher holders who are being terminated for this reason.

PHA Policy

The PHA will not provide a selection preference on the PHA's HCV waiting list for FYI voucher holders who are terminated due to the time limit on assistance.

19-II.J. PORTABILITY [FYI FAQs]

Portability for an FYI youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for an FYI youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

An FYI youth does not have to port to a jurisdiction that administers FYI vouchers.

If the receiving PHA absorbs the voucher, the PHA may absorb the youth into its regular HCV program if it has vouchers available to do so. If the receiving PHA absorbs the youth into its regular HCV program, that youth becomes a regular HCV participant with none of the limitations of an FYI voucher.

The initial and receiving PHA must work together to initiate termination of assistance upon expiration of the time limit on assistance.

19-II.K. PROJECT-BASING FYI VOUCHERS [FYI FAQs; FR Notice 1/24/22; Notice PIH 2024-03]

PHAs that have initiated the selection process to project-base FYI and/or FUP vouchers may be eligible to project-base FYI and FUP units formally identified for project basing in accordance with all applicable PBV regulations and PHA policies in Chapter 17. This includes FYI vouchers awarded under Notices PIH 2020-28, PIH 2021-26, and PIH 2023-04. Assistance awarded under Notice PIH 2019-20 is prohibited from being project-based.

PHA Policy

The PHA will not project-base FYI vouchers. All FYI vouchers will be used to provide tenant-based assistance.

PART III: VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM

19-III.A. OVERVIEW

Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans. The Veterans Affairs Supportive Housing (VASH) program combines HCV rental assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at VA medical centers (VAMCs) and Community-Based Outpatient Clinics (CBOCs), or through a designated service provider (DSP) as approved by the VA Secretary. Eligible families are homeless veterans and their families that agree to participate in VA case management and are referred to the VAMC's partner PHA for HCV assistance. The VAMC or DSP's responsibilities include:

- Screening homeless veterans to determine whether they meet VASH program participation criteria;
- Referring homeless veterans to the PHA;
 - The term *homeless veteran* means a veteran who is homeless (as that term is defined in subsection (a) or (b) of Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302)). See 38 U.S.C. 2002.
- Providing appropriate treatment and supportive services to potential VASH participants, if needed, prior to PHA issuance of a voucher;
- Providing housing search assistance to VASH participants;
- Identifying the social service and medical needs of VASH participants, and providing or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and
- Maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

VASH vouchers are awarded noncompetitively based on geographic need and PHA administrative performance. Eligible PHAs must be located within the jurisdiction of a VAMC and in an area of high need based on data compiled by HUD and the VA. When Congress funds a new allocation of VASH vouchers, HUD invites eligible PHAs to apply for a specified number of vouchers.

Generally, the HUD-VASH program is administered in accordance with regular HCV program requirements. However, HUD is authorized to waive or specify alternative requirements to allow PHAs to effectively deliver and administer VASH assistance. Alternative requirements are established in the HUD-VASH Operating Requirements, which were originally published in the Federal Register on May 6, 2008, and updated September 27, 2021. Unless expressly waived by HUD, all regulatory requirements and HUD directives regarding the HCV program are applicable to VASH vouchers, including the use of all HUD-required contracts and other forms, and all civil rights and fair housing requirements. In addition, the PHA may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program.

The VASH program is administered in accordance with applicable Fair Housing requirements since civil rights requirements cannot be waived under the program. These include applicable authorities under 24 CFR 5.105(a) and 24 CFR 982.53 including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination Act and all PHA policies as outlined in Chapter 2 of this document.

When HUD-VASH recipients include veterans with disabilities or family members with disabilities, reasonable accommodation requirements in Part II of Chapter 2 of this policy apply.

19-III.B. REFERRALS [FR Notice 9/27/21 and HUD-VASH Qs and As]

VAMC case managers will screen all families in accordance with VA screening criteria and refer eligible families to the PHA for determination of program eligibility and voucher issuance. The PHA has no role in determining or verifying the veteran's eligibility under VA screening criteria, including determining the veteran's homelessness status. The PHA must accept referrals from the partnering VAMC and must maintain written documentation of referrals in VASH tenant files. Upon turnover, VASH vouchers must be issued to eligible veteran families as identified by the VAMC.

PHA Policy

In order to expedite the screening process, the PHA will provide all forms and a list of documents required for the VASH application to the VAMC. Case managers will work with veterans to fill out the forms and compile all documents prior to meeting with the PHA and submitting an application. When feasible, the VAMC case manager should email or fax copies of all documents to the PHA prior to the meeting in order to allow the PHA time to review them and start a file for the veteran.

After the VAMC has given the PHA a complete referral, the PHA will perform an eligibility screening within five business days of receipt of a VAMC referral.

19-III.C. HCV PROGRAM ELIGIBILITY [FR Notice 9/27/21]

Eligible participants are homeless veterans and their families who agree to participate in case management from the VAMC.

- A *VASH Veteran* or *veteran family* refers to either a single veteran or a veteran with a household composed of two or more related persons. It also includes one or more eligible persons living with the veteran who are determined to be important to the veteran's care or well-being.
- A veteran for the purpose of VASH is a person whose length of service meets statutory requirements, and who served in the active military, naval, or air service, was discharged or released under conditions other than dishonorable, and is eligible for VA health care.

Under VASH, PHAs do not have authority to determine family eligibility in accordance with HCV program rules and PHA policies. The only reasons for denial of assistance by the PHA are failure to meet the income eligibility requirements and/or that a family member is subject to a lifetime registration requirement under a state sex offender registration program. Under portability, the receiving PHA must also comply with these VASH screening requirements.

Social Security Numbers

When verifying Social Security numbers (SSNs) for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name and SSN of the individual along with other identifying information of the individual, is acceptable in accordance with Section 7-II.B. of this policy.

In the case of the homeless veteran, the PHA must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of SSN and cannot require the veteran to provide a Social Security card. A VA-issued identification card may also be used to verify the SSN of a homeless veteran.

Proof of Age

The DD-214 or 10-10EZ must be accepted as proof of age in lieu of birth certificates or other PHA-required documentation as outlined in Section 7-II.C. of this policy. A VA-issued identification card may also be used to verify the age of a homeless veteran.

Photo Identification

A VA-issued identification card must be accepted in lieu of another type of government-issued photo identification. These cards also serve as verification of SSNs and date of birth.

Income Eligibility

The PHA must determine income eligibility for VASH families in accordance with 24 CFR 982.201 and policies in Section 3-II.A. If the family is over-income based on the most recently published income limits for the family size, the family will be ineligible for HCV assistance.

While income-targeting does not apply to VASH vouchers, the PHA may include the admission of extremely low-income VASH families in its income targeting numbers for the fiscal year in which these families are admitted.

PHA Policy

While income-targeting requirements will not be considered by the PHA when families are referred by the partnering VAMC, the PHA will include any extremely low-income VASH families that are admitted in its income targeting numbers for the fiscal year in which these families are admitted.

Screening

The PHA may not screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR 982.552 and 982.553 with one exception: the PHAs is still required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. Accordingly, with the exception of denial for registration as a lifetime sex offender under state law and PHA policies on how sex offender screenings will be conducted, PHA policy in Sections 3-III.B. through 3-III.E. do not apply to VASH. The prohibition against screening families for anything other than lifetime sex offender status applies to all family members, not just the veteran.

If a family member is subject to lifetime registration under a state sex offender registration program, the remaining family members may be served if the family agrees to remove the sex offender from its family composition. This is true unless the family member subject to lifetime registration under a state sex offender registration program is the homeless veteran, in which case the family would be denied admission to the program [New HCV GB, *HUD-VASH*, p. 6].

Denial of Assistance [Notice PIH 2008-37]

Once a veteran is referred by the VAMC, the PHA must either issue a voucher or deny assistance. If the PHA denies assistance, it must provide the family with prompt notice of the decision and a brief statement of the reason for denial in accordance with Section 3-III.F. Like in the standard HCV program, the family must be provided with the opportunity for an informal review in accordance with policies in Section 3-III.F. In addition, a copy of the denial notice must be sent to the VAMC case manager.

19-III.D. CHANGES IN FAMILY COMPOSITION

Adding Family Members [FR Notice 9/27/21]

When adding a family member after the family has been admitted to the program, PHA policies in Section 3-II.B. apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and will apply its regular screening criteria in doing so.

Remaining Family Members [HUD-VASH Qs and As]

If the homeless veteran dies while the family is being assisted, the voucher would remain with the remaining members of the tenant family. The PHA may use one of its own regular vouchers, if available, to continue assisting this family and free up a VASH voucher for another VASH-eligible family. If a regular voucher is not available, the family would continue utilizing the VASH voucher. Once the VASH voucher turns over, however, it must go to a homeless veteran family.

Family Break Up [HUD-VASH Qs and As]

In the case of divorce or separation, since the set-aside of VASH vouchers is for veterans, the voucher must remain with the veteran. This overrides the PHA's policies in Section 3-I.C. on how to determine who remains in the program if a family breaks up.

19-III.E. LEASING [FR Notice 9/27/21]

Waiting List

The PHA does not have the authority to maintain a waiting list or apply local preferences for HUD–VASH vouchers. Policies in Chapter 4 relating to applicant selection from the waiting list, local preferences, special admissions, cross-listing, and opening and closing the waiting list do not apply to VASH vouchers.

Exception Payment Standards

To assist VASH participants in finding affordable housing, especially in competitive markets, HUD allows PHAs to establish a HUD-VASH exception payment standard. PHAs may go up to but no higher than 120 percent of the published area-wide fair market rent (FMR) or small area fair market rent (SAFMR) specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD through the regular waiver process outlined in Notice PIH 2018-16.

Voucher Issuance

Unlike the standard HCV program which requires an initial voucher term of at least 60 days, VASH vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

PHA Policy

All VASH vouchers will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

The PHA must track issuance of HCVs for families referred by the VAMC or DSP in PIC as required in Notice PIH 2011-53.

Initial Lease Term

Unlike in the standard the HCV program, VASH voucher holders may enter into an initial lease that is for less than 12 months. Accordingly, PHA policy in Section 9-I.E., Term of Assisted Tenancy, does not apply.

Ineligible Housing [FR Notice 6/18/14]

Unlike in the standard HCV program, VASH families are permitted to live on the grounds of a VA facility in units developed to house homeless veterans. This applies to both tenant-based assistance and PBV. Therefore, 24 CFR 982.352(a)(5) and 983.53(a)(2), which prohibit units on the physical grounds of a medical, mental, or similar public or private institution, do not apply to VASH for this purpose only. Accordingly, PHA policy in 9-I.D., Ineligible Units, does not apply for this purpose only.

HQS Pre-Inspections

To expedite the leasing process, PHAs may pre-inspect available units that veterans may be interested in leasing in order to maintain a pool of eligible units. If a VASH family selects a unit that passed an HQS inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval (Form HUD-52517), the unit may be approved if it meets all other conditions under 24 CFR 982.305. However, the veteran must be free to select their unit and cannot be steered to these units.

PHA Policy

To expedite the leasing process, the PHA may pre-inspect available units that veterans may be interested in leasing to maintain a pool of eligible units. If a VASH family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within 45 days of the date of the RTA, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305. The veteran will be free to select their unit.

When a pre-inspected unit is not selected, the PHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for both initial and any required reinspections.

19-III.F. PORTABILITY [FR Notice 9/27/21 and Notice PIH 2011-53]

General Requirements

Portability policies under VASH depend on whether the family wants to move within or outside of the initial VA facility's catchment area (the area in which the VAMC or DSP operates). In all cases, the initial VA facility must be consulted prior to the move and provide written confirmation that case management will continue to be provided in the family's new location. VASH participant families may only reside in jurisdictions that are accessible to case management services, as determined by case managers at the partnering VAMC or DSP.

Under VASH, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied. As a result, PHA policies in Section 10-II.B. about nonresident applicants do not apply.

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

Portability within the Initial VAMC or DSP's Catchment Area

A VASH family can move within the VAMC's catchment area as long as case management can still be provided, as determined by the VA. If the initial PHA's partnering VAMC will still provide the case management services, the receiving PHA must process the move in accordance with portability procedures:

- If the receiving PHA has been awarded VASH vouchers, it can choose to either bill the initial PHA or absorb the family if it has a VASH voucher available to do so.
 - If the PHA absorbs the family, the VAMC or DSP providing the initial case management must agree to the absorption and the transfer of case management.
- If the receiving PHA does not administer a VASH program, it must always bill the initial PHA.

Portability Outside of the Initial VAMC or DSP's Catchment Area

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VAMC or DSP to provide case management services, the initial VAMC or DSP must first determine that the VASH family could be served by another VAMC or DSP that is participating in the VASH program, and the receiving PHA has an available VASH voucher.

In these cases, the family must be absorbed by the receiving PHA either as a new admission or as a portability move-in, as applicable. Upon absorption, the initial PHA's VASH voucher will be available to lease to a new VASH-eligible family, and the absorbed family will count toward the number of VASH slots awarded to the receiving PHA.

Portability Outside of the Initial VAMC or DSP's Catchment Area under VAWA

Veterans who request to port beyond the catchment area of the VAMC or DSP where they are receiving case management to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, and who reasonably believes they are threatened with imminent harm from further violence by remaining in the unit may port prior to receiving approval from the receiving VAMC or DSP. The initial PHA must follow its emergency transfer plan (see Exhibit 16-3). PHAs may require verbal self-certification or a written request from a participant seeking a move beyond the catchment area of the VAMC or DSP.

The verbal self-certification or written request must include either a statement expressing why the participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same unit or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the participants request for the move.

The participant must still port to a PHA that has a VASH program. If the receiving PHA does not have a VASH voucher available to lease, they may bill the initial PHA until a VASH voucher is available, at which point the porting veteran must be absorbed into the receiving PHA's program.

19-III.G. TERMINATION OF ASSISTANCE [FR Notice 9/27/21]

With the exception of terminations for failure to receive case management, HUD has not established any alternative requirements for termination of assistance for VASH participants. However, prior to terminating VASH participants, HUD strongly encourages PHAs to exercise their discretion under 24 CFR 982.552(c)(2) as outlined in Section 12-II.D. of this policy and consider all relevant circumstances of the specific case. This includes granting reasonable accommodations for persons with disabilities, as well as considering the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination.

VASH participant families may not be terminated after admission for a circumstance or activities that occurred prior to admission and were known to the PHA but could not be considered at the time of admission due to VASH program requirements. The PHA may terminate the family's assistance only for program violations that occur after the family's admission to the program.

Cessation of Case Management

As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive case management services from the VAMC or DSP. A VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or DSP.

However, a VAMC or DSP determination that the participant family no longer requires case management is not grounds for termination of voucher or PBV assistance. In such a case, at its option, the PHA may offer the family continued assistance through one of its regular vouchers. If the PHA has no voucher to offer, the family will retain its VASH voucher or PBV unit until such time as the PHA has an available voucher for the family.

VAWA [FR Notice 9/27/21]

When a veteran's family member is receiving protection under VAWA because the veteran is the perpetrator of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the victim must continue to be assisted. Upon termination of the perpetrator's VASH assistance, the victim must be given a regular HCV if one is available, and the perpetrator's VASH voucher must be used to serve another eligible veteran family. If a regular HCV is not available, the perpetrator must be terminated from assistance and the victim will continue to use the VASH voucher.

19-III.H. PROJECT-BASING VASH VOUCHERS

General Requirements [Notice PIH 2017-21 and FR Notice 9/27/21]

PHAs are authorized to project-base their tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements provided that the VAMC will continue to make supportive services available. In addition, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV program cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A. Note that VASH supportive services only need to be provided to VASH families receiving PBV assistance in the project, not all families receiving PBV assistance in the project. If a VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit as long as the family resides in the unit.

If the PHA project-bases VASH vouchers, the PHA must consult with the partnering VAMC or DSP to ensure approval of the project or projects. PHAs may project-base VASH vouchers in projects alongside other PBV units and may execute a single HAP contract covering both the VASH PBVs and the other PBVs. The PHA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a HUD set-aside award.

If a VASH family is referred to the PHA and there is an available PBV unit that is not exclusively made available to VASH families, the PHA may offer to refer the family to the owner if allowable under the selection policy for that project, and the owner and PHA may amend the HAP contract to designate the PBV unit as a VASH PBV unit.

The PHA and owner may agree to amend a PBV HAP contract to redesignate a regular PBV unit as a unit specifically designated for VASH families so long as the PHA first consults with the VAMC or DSP. Additionally, the PHA and owner may agree to amend a PBV HAP contract to redesignate a unit specifically designated for VASH families as a regular PBV unit, so long as the unit is not funded through a VASH PBV set-aside award and is eligible for regular PBV (i.e., the unit is not on the grounds of a medical facility and the unit is eligible under the PHA's program and project caps).

Policies for VASH PBV units will generally follow PHA policies for the standard PBV program as listed in Chapter 17, with the exception of the policies listed below.

Failure to Participate in Case Management [FR Notice 9/27/21]

Upon notification by the VAMC or DSP of the family's failure to participate, without good cause, in case management, the PHA must provide the family a reasonable time period to vacate the unit. The PHA must terminate assistance to the family at the earlier of either the time the family vacates or the expiration of the reasonable time period given to vacate.

PHA Policy

Upon notification by the VAMC or DSP that a VASH PBV family has failed to participate in case management without good cause, the PHA will provide written notice of termination of assistance to the family and the owner within 10 business days. The family will be given 60 days from the date of the notice to move out of the unit.

The PHA may make exceptions to this 60-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, the PHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. The PHA may add the removed unit to the HAP contract after the ineligible family vacates the property.

Moves [HUD-VASH Qs and As, FR Notice 9/27/21]

When a VASH PBV family is eligible to move from its PBV unit in accordance with Section 17-VIII.C. of this policy, but there is no other comparable tenant-based rental assistance, the following procedures must be implemented:

- If a VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, the PHA may require a family who still requires case management to wait for a VASH tenant-based voucher for a period not to exceed 180 days;
- If a VASH tenant-based voucher is still not available after that period, the family must be allowed to move with its VASH voucher. Alternatively, the PHA may allow the family to move with its VASH voucher without having to meet this 180-day period. In either case, the PHA is required to replace the assistance in the PBV unit with one of its regular vouchers, unless the PHA and owner agree to temporarily remove the unit from the HAP contract; and
- If a VASH veteran is determined to no longer require case management, the PHA must allow the family to move with the first available tenant-based voucher if no VASH voucher is immediately available and cannot require the family to wait for a VASH voucher to become available.

PART IV: MAINSTREAM VOUCHER PROGRAM

19-IV.A. PROGRAM OVERVIEW [Notice PIH 2020-01]

Mainstream vouchers assist non-elderly persons with disabilities and their families in the form of either project-based or tenant-based voucher assistance.

Aside from separate funding appropriations and serving a specific population, Mainstream vouchers follow the same program requirements as standard vouchers. The PHA does not have special authority to treat families that receive a Mainstream voucher differently from other applicants and participants. For example, the PHA cannot apply different payment standards, establish conditions for allowing portability, or apply different screening criteria to Mainstream families.

The Mainstream voucher program, (previously referred to as the Mainstream 5-Year program or the Section 811 voucher program) was originally authorized under the National Affordable Housing Act of 1990. Mainstream vouchers operated separately from the regular HCV program until the passage of the Frank Melville Supportive Housing Investment Act of 2010. Funding for Mainstream voucher renewals and administrative fees was first made available in 2012. In 2017 and 2019, incremental vouchers were made available for the first time since the Melville Act (in addition to renewals and administrative fees), and PHAs were invited to apply for a competitive award of Mainstream vouchers under the FY17 and FY19 NOFAs. In 2020, Notice PIH 2020-22 provided an opportunity for any PHA administering an HCV program to apply for Mainstream vouchers noncompetitively, while Notice PIH 2020-09 authorized an increase in Mainstream voucher units and budget authority for those PHAs already awarded Mainstream vouchers under the FY17 and FY19 NOFAs.

Funds for Mainstream vouchers may be recaptured and reallocated if the PHA does not comply with all program requirements or fails to maintain a utilization rate of 80 percent for the PHA's Mainstream vouchers.

19-IV.B. ELIGIBLE POPULATION [Notice PIH 2020-01 and Notice PIH 2020-22]

All Mainstream vouchers must be used to serve non-elderly persons with disabilities and their families, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old as of the effective date of the initial HAP contract. The eligible disabled household member does not need to be the head of household.

The definition of person with disabilities for purposes of Mainstream vouchers is the statutory definition under section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

Existing families receiving Mainstream vouchers, where the eligible family member is now age 62 or older, will not “age out” of the program as long as the family was eligible on the day it was first assisted under a HAP contract.

The PHA may not implement eligibility screening criteria for Mainstream vouchers that is different from that of the regular HCV program.

19-IV.C. PARTNERSHIP AND SUPPORTIVE SERVICES [Notice PIH 2020-01]

PHAs are encouraged but not required to establish formal and informal partnerships with a variety of organizations that assist persons with disabilities to help ensure eligible participants find and maintain stable housing.

PHA Policy

The PHA will implement a Mainstream program, in partnership with *[insert names of any groups with which the PHA has formed partnerships]*.

19-IV.D. WAITING LIST ADMINISTRATION

General Waiting List Requirements [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]

PHAs must not have a separate waiting list for Mainstream voucher assistance since the PHA is required by the regulations to maintain one waiting list for tenant-based assistance [24 CFR 982.204(f)]. All PHA policies on opening, closing, and updating the waiting list, as well as waiting list preferences in Chapter 4, apply to the Mainstream program.

When the PHA is awarded Mainstream vouchers, these vouchers must be used for new admissions to the PHA's program from the waiting list. The PHA must lease these vouchers by pulling the first Mainstream-eligible family from its tenant-based waiting list. PHAs are not permitted to reassign existing participants to the program in order to make regular tenant-based vouchers available. Further, the PHA may not skip over Mainstream-eligible families on the waiting list because the PHA is serving the required number of Mainstream families.

Upon turnover, vouchers must be provided to Mainstream-eligible families. If a Mainstream turnover voucher becomes available, the PHA must determine if the families at the top of the waiting list qualify under program requirements.

Admission Preferences [Notice PIH 2020-01; FY17 Mainstream NOFA; FY19 Mainstream NOFA]

If the PHA claimed points for a preference in a NOFA application for Mainstream vouchers, the PHA must adopt a preference for at least one of the targeted groups identified in the NOFA.

PHA Policy

The PHA claimed a preference for a targeted group as part of an application for Mainstream vouchers under a NOFA. The PHA will offer the following preference:

[Insert the PHA's preference here and in Section 4-III.C.]

19-IV.E. PORTABILITY [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]

Mainstream voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to Mainstream families.

The following special considerations for Mainstream vouchers apply under portability:

- If the receiving PHA has a Mainstream voucher available, the participant may remain a Mainstream participant.
 - If the receiving PHA chooses to bill the initial PHA, then the voucher will remain a Mainstream voucher.
 - If the receiving PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream voucher if the receiving PHA has a Mainstream voucher available, and the Mainstream voucher at the initial PHA will be freed up to lease to another Mainstream-eligible family.
- If the receiving PHA does not have a Mainstream voucher available, the participant may receive a regular voucher.

19-IV.F. PROJECT-BASING MAINSTREAM VOUCHERS [FY19 Mainstream Voucher NOFA Q&A]

The PHA may project-base Mainstream vouchers in accordance with all applicable PBV regulations and PHA policies in Chapter 17. PHAs are responsible for ensuring that, in addition to complying with project-based voucher program requirements, the project complies with all applicable federal nondiscrimination and civil rights statutes and requirements. This includes, but is not limited to, Section 504 of the Rehabilitation Act (Section 504), Titles II or III of the Americans with Disabilities (ADA), and the Fair Housing Act and their implementing regulations at 24 CFR Part 8; 28 CFR Parts 35 and 36; and 24 CFR Part 100. Mainstream vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

PART V: NON-ELDERLY DISABLED (NED) VOUCHERS

19-V.A. PROGRAM OVERVIEW [Notice PIH 2013-19]

NED vouchers help non-elderly disabled families lease suitable, accessible, and affordable housing in the private market. Aside from separate funding appropriations and serving a specific population, NED vouchers follow the same program requirements as standard vouchers. The PHA does not have special authority to treat families that receive a NED voucher differently from other applicants and participants.

Some NED vouchers are awarded to PHAs through competitive NOFAs. The NOFA for FY2009 Rental Assistance for NED made incremental funding available for two categories of NED families:

- **Category 1** vouchers enable non-elderly persons or families with disabilities to access affordable housing on the private market.
- **Category 2** vouchers enable non-elderly persons with disabilities currently residing in nursing homes or other healthcare institutions to transition into the community. PHAs with NED Category 2 vouchers were required to partner with a state Medicaid or health agency or the state Money Follows the Person (MFP) Demonstration agency.

Since 1997, HCVs for NED families have been also awarded under various special purpose HCV programs: Rental Assistance for Non-Elderly Persons with Disabilities in Support of Designated Housing Plans (Designated Housing), Rental Assistance for Non-Elderly Persons with Disabilities Related to Certain Types of Section 8 Project-Based Developments (Certain Developments), One-Year Mainstream Housing Opportunities for Persons with Disabilities, and the Project Access Pilot Program (formerly Access Housing 2000).

- **Designated Housing** vouchers enable non-elderly disabled families, who would have been eligible for a public housing unit if occupancy of the unit or entire project had not been restricted to elderly families only through an approved Designated Housing Plan, to receive rental assistance. These vouchers may also assist non-elderly disabled families living in a designated unit/project/building to move from that project if they so choose. The family does not have to be listed on the PHA's voucher waiting list. Instead, they may be admitted to the program as a special admission. Once the impacted families have been served, the PHA may begin issuing these vouchers to non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from the PHA's HCV waiting list.

- **Certain Developments** vouchers enable non-elderly families having a person with disabilities, who do not currently receive housing assistance in certain developments where owners establish preferences for, or restrict occupancy to, elderly families, to obtain affordable housing. These non-elderly families with a disabled person do not need to be listed on the PHA’s HCV waiting list in order to be offered and receive housing choice voucher rental assistance. It is sufficient that these families' names are on the waiting list for a covered development at the time their names are provided to the PHA by the owner. Once the impacted families have been served, the PHA may begin issuing these vouchers to non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from the PHA’s HCV waiting list.
- **One-Year Mainstream Housing Opportunities for Persons with Disabilities (One-Year Mainstream)** vouchers enable non-elderly disabled families on the PHA’s waiting list to receive a voucher. After initial leasing, turnover vouchers must be issued to non-elderly disabled families from the PHA’s voucher waiting list.

19-V.B. ELIGIBLE POPULATION

General Requirements [Notice PIH 2013-19]

Only eligible families whose head of household, spouse, or cohead is non-elderly (under age 62) and disabled may receive a NED voucher. Families with only a minor child with a disability are not eligible.

In cases where the qualifying household member now qualifies as elderly due to the passage of time since the family received the NED voucher, existing NED participant families do not “age out,” as the family was eligible on the day it was first assisted under a housing assistance payments (HAP) contract.

The definition of person with disabilities for purposes of NED vouchers is the statutory definition under Section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

The PHA may not implement eligibility screening criteria for NED vouchers that is different from that of the regular HCV program.

NED Category 2 [Notice PIH 2013-19 and NED Category 2 FAQs]

In addition to being eligible for the PHA’s regular HCV program and a non-elderly person with a disability, in order to receive a Category 2 voucher, the family’s head, spouse, cohead, or sole member must be transitioning from a nursing home or other healthcare institution and provided services needed to live independently in the community.

Nursing homes or other healthcare institutions may include intermediate care facilities and specialized institutions that care for those with intellectual disabilities, developmentally disabled, or mentally ill, but do not include board and care facilities (e.g., adult homes, adult day care, adult congregate living).

The PHA cannot limit who can apply to just those persons referred or approved by a Money Follows the Person (MFP) Demonstration agency or state health agency. Other individuals could be placed on the waiting list if they can show, with confirmation by an independent agency or organization that routinely provides such services (this can be the MFP or partnering agency, but need not be), that the transitioning individual will be provided with all necessary services, including care or case management.

For each Category 2 family, there must be documentation (e.g., a copy of a referral letter from the partnering or referring agency) in the tenant file identifying the institution where the family lived at the time of voucher issuance.

19-V.C. WAITING LIST

General Requirements [Notice PIH 2013-19]

Families must be selected for NED vouchers from the PHA's waiting list in accordance with all applicable regulations and PHA policies in Chapter 4.

Regardless of the number of NED families the PHA is required to serve, the next family on the waiting list must be served. Further, the PHA may not skip over NED-eligible families on the waiting list because the PHA is serving the required number of NED families.

NED Category 2 Referrals [NED Category 2 FAQs]

For NED Category 2 families, the partnering agency may make referrals of eligible families to the PHA for placement on the waiting list. The PHA will then select these families from the waiting list for voucher issuance. Because language in the NOFA established that vouchers awarded under the NOFA must only serve non-elderly disabled families transitioning from institutions, the PHA does not need to establish a preference in order to serve these families ahead of other families on the PHA's waiting list.

PHAs must accept applications from people living outside their jurisdiction or from people being referred from other Medicaid or MFP service agencies in their state.

If the PHA's waiting list is closed, the PHA must reopen its waiting list to accept referrals from its partnering agency. When opening the waiting list, PHAs must advertise in accordance with 24 CFR 982.206 and PHA policies in Section 4-II.C. In addition, the PHA must ensure that individuals living in eligible institutions are aware when the PHA opens its waiting list by reaching out to social service agencies, nursing homes, intermediate care facilities and specialized institutions in the local service area.

Reissuance of Turnover Vouchers [Notice PIH 2013-19]

All NED turnover vouchers must be reissued to the next NED family on the PHA's waiting list with the following exception: A Category 2 voucher must be issued to another Category 2 family upon turnover if a Category 2 family is on the PHA's waiting list. If there are no Category 2 families on the PHA's waiting list, the PHA must contact its partnering agency as well as conduct outreach through appropriate social service agencies and qualifying institutions to identify potentially eligible individuals. Only after all means of outreach have been taken to reach Category 2 families can the PHA reissue the voucher to another Category 2 NED family on the PHA's waiting list. Any subsequent turnover of that voucher must again be used for a Category 2 family on the PHA's waiting list, and the PHA is under the same obligation to conduct outreach to Category 2 families if no such families are on the PHA's waiting list.

For PHAs that received both Category 1 and Category 2 vouchers, if at any time the PHA is serving fewer Category 2 families than the number of Category 2 HCVs awarded under the NOFA, when a Category 2 family applies to the waiting list and is found eligible, the PHA must issue the next NED voucher to that family. HUD monitors the initial leasing and reissuance of Category 2 HCVs. These vouchers may be recaptured and reassigned if not leased properly and in a timely manner.

All NED vouchers should be affirmatively marketed to a diverse population of NED-eligible families to attract protected classes least likely to apply. If at any time following the turnover of a NED HCV a PHA believes it is not practicable to assist NED families, the PHA must contact HUD.

19-V.D. LEASE UP [Notice PIH 2013-19]

Briefings

In addition to providing families with a disabled person a list of accessible units known to the PHA, HUD encourages, but does not require, PHAs to provide additional resources to NED families as part of the briefing.

PHA Policy

In addition to providing families with a disabled person a list of accessible units known to the PHA, the PHA will provide a list of local supportive service and disability organizations that may provide such assistance as counseling services and funding for moving expenses or security deposits in the briefing packet. These organizations include state protection and advocacy agencies, Centers for Independent Living, state Medicaid agencies, and disability advocacy groups that represent individuals with a variety of disabilities.

Further, if other governmental or non-governmental agencies provide available resources such as housing search counseling, moving expenses, security deposits, and utility deposits, the PHA will include this information in the briefing packet.

The PHA will also offer specialized housing search assistance to families with a disabled person to locate accessible units if requested. Trained PHA staff or a local supportive service or disability organization may be able to provide this service.

Voucher Term

While the PHA is not required to establish different policies for the initial term of the voucher for NED vouchers, HUD has encouraged PHAs with NED vouchers to be generous in establishing reasonable initial search terms and subsequent extensions for families with a disabled person.

PHA Policy

All NED vouchers will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

All other PHA policies on extensions and suspension of vouchers in Section 5-II.E. will apply.

Special Housing Types [Notice PIH 2013-19 and NED Category 2 FAQs]

In general, a PHA is not required to permit families to use any of the special housing types and may limit the number of families using such housing. However, the PHA must permit the use of a special housing type if doing so provides a reasonable accommodation so that the program is readily accessible to and usable by a person with disabilities.

Such special housing types include single room occupancy housing, congregate housing, group homes, shared housing, cooperative housing, and manufactured homes when the family owns the home and leases the manufactured home space.

Persons with disabilities transitioning out of institutional settings may choose housing in the community that is in a group or shared environment or where some additional assistance for daily living is provided for them on site. Under HUD regulations, group homes and shared housing are considered special housing types and are not excluded as an eligible housing type in the HCV program. Assisted living facilities are also considered eligible housing under the normal HCV program rules, as long as the costs for meals and other supportive services are not included in the housing assistance payments (HAP) made by the PHA to the owner, and as long as the person does not need continual medical or nursing care.

19-V.E. PORTABILITY [NED Category 2 FAQs]

NED voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to NED families. However, the PHA may, but is not required to, allow applicant NED families to move under portability, even if the family did not have legal residency in the initial PHA's jurisdiction when they applied.

PHA Policy

If neither the head of household nor the spouse or cohead of a NED applicant family had a domicile (legal residence) in the PHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial PHA's jurisdiction for at least 12 months before requesting portability.

The PHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2) or reasons related to domestic violence, dating violence, sexual assault, stalking, or human trafficking.

PART VI: STABILITY VOUCHER PROGRAM

19-VI.A. PROGRAM OVERVIEW [Notice PIH 2022-24]

The Consolidated Appropriations Act, 2021 (Public Law 116-260) (2021 Act) provided new incremental funding for voucher assistance through Stability Vouchers (SVs) for households who are:

- Homeless, as defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a));
- At-risk of homelessness;
- Those fleeing or attempting to flee domestic violence dating violence, sexual assault, stalking, or human trafficking; and
- Veterans and families that include a veteran family member that meet one of the above criteria.

HUD may waive certain statutory and regulatory provisions to administer the SVs (except for requirements related to tenant rights and protections, rent setting, fair housing, nondiscrimination, labor standards and the environment) upon a finding that any such waivers or alternative requirements are necessary to facilitate the use of funds made available for SVs. Unless expressly waived below, all statutory and regulatory requirements and HUD directives regarding the HCV program are applicable to SVs, including the use of all HUD required contracts and other forms. A PHA may request additional good cause regulatory waivers as established in Notice PIH 2018-16 in connection with the use of the SVs, which HUD will consider and assess upon the request of the PHA.

19-VI.B. PARTNERING ORGANIZATION [Notice PIH 2022-24]

SV funding is only awarded to PHAs that partner with eligible Continuums of Care (CoCs) or other entities that serve the targeted population, such as Victim Service Providers (VSPs) and Veteran Service Organizations (VSOs) serving the targeted population in the PHA's jurisdiction to implement coordinated approaches to reduce the prevalence of homelessness, improve service engagement, and promote housing stability while ensuring geographical need of assistance.

The PHA must enter into a Memorandum of Understanding (MOU) with the CoC to establish a partnership with the CoC to pair SVs with CoC-funded supportive services, and to collaborate with the CoC and other stakeholders to develop a prioritization plan for these vouchers.

PHA Policy

The PHA has entered into an MOU with the following partnering organization *[insert names of CoC, VSP, and/or VSO]*. See Exhibit 19-3 for a copy of the MOU.

19-VI.C. REFERRALS [Notice PIH 2022-24]

In general, families are issued SVs as the result of either:

- The direct referral process from the CoC or other partnering organizations; or
- A situation where the PHA makes an SV available in order to facilitate an emergency transfer for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking.

CoC Referrals

The primary responsibility of the CoC under the MOU is to make direct referrals of qualifying individuals and families to the PHA and to identify any CoC-funded available supportive services that may be paired with SVs.

The CoC or other partnering agency must certify that the SV applicants they refer to the PHA meet the definition of a qualifying individual or family for SV assistance.

The referring agency must provide documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for SV assistance. The PHA must retain this documentation as part of the family's file.

PHA Policy

The CoC or partnering agency must establish and implement a system to identify SV-eligible individuals and families within the agency's caseload and make referrals to the PHA.

The CoC or other partnering agency must certify that the SV applicants they refer to the PHA meet SV eligibility criteria. The PHA will maintain a copy of the referral or certification from the CoC or other partnering agency in the participant's file along with other eligibility paperwork. Homeless service providers may, but are not required to, use the certification form found in Exhibit 19-1 of this chapter. Victim services providers may, but are not required to, use the certification form found in Exhibit 19-2 of this chapter when identifying eligible families who qualify as victims of human trafficking.

As part of the MOU, the PHA and CoC or other partnering agency will identify staff positions to serve as lead SV liaisons. These positions will be responsible for transmission and acceptance of referrals. The CoC or partnering agency must commit sufficient staff and resources to ensure eligible individuals and families are identified and determined eligible in a timely manner.

The PHA liaison responsible for acceptance of referrals will contact the CoC or partnering agency liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than five business days from the date the CoC or partnering agency receives this notification, the CoC or partnering agency liaison will provide the PHA with a list of eligible referrals including the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating they are SV-eligible.

Referrals from Outside the CoC

The PHA must also take direct referrals from outside the CoC process if:

- The CoC does not have a sufficient number of eligible families to refer to the PHA; or
- The CoC does not identify families that may be eligible for SV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking.

If a direct referral is taken from outside of the CoC, the PHA must enter into a partnership to receive direct referrals from another entity, assuming there are such additional organizations that can certify that an individual or family is eligible for an SV.

The PHA must enter into an MOU with a partnering referral agency or may add the partnering referral agency to the MOU between the PHA and CoC.

19-VI.D. WAITING LIST [Notice PIH 2022-24]

HCV Waiting List

The regulation that requires the PHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 4 does not apply to PHAs operating the SV program. Direct referrals are not added to the PHA's HCV waiting list.

The PHA must inform families on the HCV waiting list of the availability of SVs by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2022-24.

PHA Policy

The PHA will post information about the SV program for families on the PHA's HCV waiting list on their website. The notice will:

Describe the eligible populations to which SVs are limited.

Clearly state that the availability of these SVs is managed through a direct referral process.

Advise the family to contact the CoC (or any other PHA referral partner, if applicable) if the family believes they may be eligible for SV assistance.

The PHA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities in accordance with Chapter 2. The PHA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 2.

SV Waiting List

The HCV regulations requiring the PHA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the SV program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the SVs available, the PHA must maintain a separate waiting list for SV referrals. Upon turnover, SV vouchers must continue to remain available for eligible families.

Further, the SV waiting list is not subject to PHA policies in Chapter 4 regarding opening and closing the HCV waiting list. The PHA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the SV waiting list.

HCV Waiting List Preferences

If local preferences are established by the PHA for HCV in Chapter 4, they do not apply to SVs. However, if the PHA has a homelessness preference or a preference for survivors of domestic violence, dating violence, sexual assault, stalking, or human trafficking for the regular HCV program, the PHA must refer any applicant on the waiting list that indicated they qualified for this preference to the CoC, or the applicable partnering referral agency.

PHA Policy

The PHA does not offer either a homelessness or VAWA preference for the HCV waiting list.

SV Waiting List Preferences

With the exception of a residency preference, which may not be applied to the PHA's SV waiting list, the PHA may choose, in coordination with the CoC and other referral partners, to establish separate local preferences for SVs, or may simply choose to not establish any local preferences for the SV waiting list. The preference system may not prohibit SV admissions from any of the four qualifying categories of eligibility.

PHA Policy

No local preferences have been established for the SV waiting list.

19-VI.E. FAMILY ELIGIBILITY [Notice PIH 2022-24]

Referring Agency Determination of Eligibility

The CoC or referring agency determines whether the individual or family meets any one of the eligibility criteria described in Notice PIH 2022-24 and then refers the family to the PHA. The PHA determines that the family meets other eligibility criteria for the HCV program, as modified for the SV program and outlined below.

In order to be eligible for an SV, a household must meet one of four eligibility criteria:

- Homeless, as defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)) and 24 CFR 578.3;
- At-risk of homelessness as defined in 24 CFR 5.78.3;
- Those fleeing or attempting to flee domestic violence dating violence, sexual assault, stalking, or human trafficking; and
- Veterans [as defined in 38 U.S.C. 101(2); 38 CFR 3.1(d)] and families that include a veteran family member that meet one of the above criteria.

Mandatory Denials

HUD waived 24 CFR 982.552 and 982.553 in part for the SV applicants and established alternative requirements for mandatory and permissive prohibitions of admissions. Except where applicable, PHA policies regarding denials in Chapter 3 of this policy do not apply to screening individuals and families for eligibility for an SV. Instead, the SV alternative requirement listed in this section will apply to all SV applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2022-24 and in this chapter, however, apply only when screening the individual or family for eligibility for an SV. When adding a family member after the family has been placed under a HAP contract with SV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 in doing so.

Under alternative requirements for the SV program, mandatory denials for SV applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

The PHA will also deny assistance to household members already receiving assistance from another program.

The PHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited SV grounds for denial of admission first.

PHA Policy

While the PHA will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, the PHA will first notify the family of the limited SV grounds for denial of admission as part of the notice of denial that will be mailed to the family.

Permissive Denial

Notice PIH 2022-24 lists permissive prohibitions for which the PHA may, but is not required to, deny admission to SV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for SV families.

If the PHA intends to establish permissive prohibition policies for SV applicants, the PHA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

PHA Policy

In consultation with the CoC, the PHA will apply permissive prohibition to the screening of SV applicants. Determinations using permissive prohibitions will be made based on an individualized assessment of relevant mitigating information in accordance with policies in Section 3-III.E. of the administrative plan.

The PHA will establish the following permissive prohibitions:

If the PHA determines that any household member is currently engaged in, or has engaged in within the previous 12 months:

Violent criminal activity

Other 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

If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program within the previous 12 months.

If the family engaged in or threatened abusive or violent behavior toward PHA personnel within the previous 12 months.

Prohibitions based on criminal activity for the eligible SV populations regarding drug possession will be considered apart from criminal activity against persons (i.e., violent criminal activity).

In compliance with PIH 2022-24, the PHA **will not** deny an SV applicant admission regardless of whether:

Any member of the family has been evicted from federally assisted housing in the last five years

A PHA has ever terminated assistance under the program for any member of the family

The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act

The family has not reimbursed any PHA for amounts 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 breached an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA

The family would otherwise be prohibited admission under alcohol abuse standards established by the PHA in accordance with 24 CFR 982.553(a)(3)

The PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission, drug-related criminal activity

Self-Certification of Income at Admission

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the SV program applicants at admission, and alternatively, PHAs may consider self-certification the highest form of income verification at admission. As such, PHA policies related to the verification of income in Section 7-I.B. do not apply to SV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request.

PHA Policy

Any documents used for verification must be the original (not photocopies) and dated within the 60-day period prior to admission. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

Any family self-certifications must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

The PHA will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 14. The PHA will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. The PHA 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 PHA will terminate the family's assistance in accordance with the policies in Chapter 12.

Recently Conducted Income Determinations

PHAs may accept income calculations and verifications from third-party providers or from an examination that the PHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and
- The family certifies there has been no change in income or family composition in the interim.

PHA Policy

The PHA will accept income calculations and verifications from third-party providers provided they meet the criteria outlined above.

The family certification must be made in a format acceptable to the PHA and must be signed by all adult family members whose information or status is being verified.

At the time of the family's annual reexamination, the PHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and the PHA policies in Chapter 11.

EIV Income Validation

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, the PHA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with PHA policies in Chapter 3.

If a PHA later determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program in accordance with Chapter 12.

Social Security Number and Citizenship Status Verification

For the SV program, the PHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the SV program. Instead, PHAs may adopt policies to admit SV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the PHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

PHA Policy

The PHA will admit SV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. These individuals must provide the required documentation in accordance with policies in Chapter 7 within 180 days of admission. The PHA may provide an additional 60-day extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If the PHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

Age and Disability Verifications

PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

PHA Policy

The PHA will accept self-certification of date of birth and disability status if a higher form of verification is not immediately available. The certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified. If self-certification is accepted, within 90 days of admission, the PHA will verify the information in EIV or through other third-party verification if the information is not available in EIV. The PHA will note the family's file that self-certification was used as initial verification and include an EIV printout or other third-party verification confirming the applicant's date of birth and/or disability status.

If the PHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

Income Targeting

The PHA must determine income eligibility for SV families in accordance with 24 CFR 982.201 and PHA policy in Chapter 3; however, income targeting requirements do not apply for SV families. The PHA may still choose to include the admission of extremely low-income SV families in its income targeting numbers for the fiscal year in which these families are admitted.

PHA Policy

The PHA will not include the admission of extremely low-income SV families in its income targeting numbers for the fiscal year in which these families are admitted.

19-VI.F. HOUSING SEARCH AND LEASING

Initial Voucher Term

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, SV vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

PHA Policy

All SVs will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

HQS Pre-Inspections

To expedite the leasing process, PHAs may pre-inspect available units that SV families may be interested in leasing in order to maintain a pool of eligible units.

PHA Policy

To expedite the leasing process, the PHA may pre-inspect available units that SV families may be interested in leasing to maintain a pool of eligible units. If an SV family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305. The family will be free to select his or her unit.

When a pre-inspected unit is not selected, the PHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for any required reinspections.

Initial Lease Term

Unlike in the standard the HCV program, SV voucher holders may enter into an initial lease that is for less than 12 months, regardless of the PHA policy in Section 9-I.E., Term of Assisted Tenancy.

Portability

The normal HCV portability procedures and requirements outlined in Chapter 10 generally apply to SVs. Exceptions are addressed below.

- Under SV, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied, regardless of PHA policy in Section 10-II.B.
- A receiving PHA cannot refuse to assist an incoming SV family, regardless of whether the PHA administers SVs under its own ACC.
- If the SV family moves under portability to another PHA that administers SVs under its own ACC:
 - The receiving PHA may only absorb the incoming SV family with an SV (assuming it has an SV voucher available to do so).
 - If the PHA does not have an SV available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with SV assistance and may not absorb the family with a regular HCV when the family leases the unit.
 - Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's SV assistance, the SV administration of the voucher is in accordance with the receiving PHA's SV policies.
- If the SV family moves under portability to another PHA that does not administer SVs under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

Family Briefing

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA must inform the family how portability may impact the special SV services and assistance that may be available to the family.

The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

PHA Policy

In addition to following PHA policy on briefings in Chapter 5, as part of the briefing packet for SV families, the PHA will include a written notice that the PHA will assist the family with moves under portability.

For limited English proficient (LEP) applicants, the PHA will provide interpretation services in accordance with the PHA's LEP plan (See Chapter 2).

19-VI.G. PAYMENT STANDARDS

Overview

For the SV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the PHA may, but is not required to, establish separate higher payment standards for SVs. Lower SV payment standards are not permitted. If the PHA is increasing the regular HCV payment standard, the PHA must also increase the SV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate SV payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if the PHA chooses to establish higher payments standards for SVs, HUD has provided other regulatory waivers:

- Defining the “basic range” for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a PHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD-published SAFMRs. The PHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.

PHA Policy

The PHA will not establish a higher payment standard amount for SVs. The PHA will use the same payment standards for HCV and SV.

All rent reasonableness requirements apply to SV units, regardless of whether the PHA has established an alternative or exception SV payment standard.

Increases in Payment Standards

The requirement that the PHA apply increased payment standards at the family’s first regular recertification on or after the effective date of the increase does not apply to SV. The PHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family’s first regular reexamination following the change.

PHA Policy

The PHA will not establish an alternative policy for increases in the payment standard. PHA policy in Section 11-III.B. governing increases in payment standards will apply to SVs.

19-VI.H. PROJECT-BASED UNITS

All tenant-based SV awards can be converted to Project-Based Vouchers (PBV) at any time after award without HUD approval provided all the established PBV regulations and requirements are followed.

All PBV requirements in 24 CFR Part 983 and in Chapter 17 apply to project-based SVs with the exception of 24 CFR 983.251(c)(1), which requires PHAs to select families for project-based units from its HCV or PBV waiting list. HUD is waiving this requirement and establishing an alternative requirement that PHAs receive SV referrals from CoC partners for vouchers as well as project-based assistance.

**EXHIBIT 19-1: SAMPLE STABILITY VOUCHER (SV)
HOMELESS PROVIDER'S CERTIFICATION**

**Stability Voucher (SV)
HOMELESS CERTIFICATION**

SV Applicant Name: _____

Household without dependent children (complete one form for each adult in the household)

Household with dependent children (complete one form for household)

Number of persons in the household: _____

This is to certify that the above named individual or household meets the following criteria based on the check mark, other indicated information, and signature indicating their current living situation

Check only one box and complete only that section

Living Situation: place not meant for human habitation (e.g., cars, parks, abandoned buildings, streets/sidewalks)

The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) a public or private place not designed for, or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus station, airport, or campground.

Description of current living situation:

Homeless Street Outreach Program Name: _____

This certifying agency must be recognized by the local Continuum of Care (CoC) as an agency that has a program designed to serve persons living on the street or other places not meant for human habitation. Examples may be street outreach workers, day shelters, soup kitchens, Health Care for the Homeless sites, etc.

Authorized Agency Representative Signature: _____

Date: _____

Living Situation: Emergency Shelter

- The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) a supervised publicly or privately operated shelter as follows:

Emergency Shelter Program Name: _____

This emergency shelter must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to the U.S. Department of Housing and Urban Development (HUD) or otherwise be recognized by the CoC as part of the CoC inventory (e.g., newly established Emergency Shelter).

Authorized Agency Representative Signature: _____

Date: _____

Living Situation: Recently Homeless

- The person(s) named above is/are currently receiving financial and supportive services for persons who are homeless. Loss of such assistance would result in a return to homelessness (e.g., households in rapid rehousing programs, residents of permanent supportive housing programs participating in Moving On, etc.)

Authorized Agency Representative Signature: _____

Date: _____

This referring agency must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to HUD or otherwise be recognized by the CoC as part of the CoC inventory.

Immediately prior to entering the household's current living situation, the person(s) named above was/were residing in:

- Emergency shelter OR A place unfit for human habitation

Authorized Agency Representative Signature: _____

Date: _____

EXHIBIT 19-2: SAMPLE VICTIM SERVICE PROVIDER'S CERTIFICATION

Stability Voucher (SV)

SAMPLE CERTIFICATION FOR SURVIVORS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND/OR HUMAN TRAFFICKING

Use of this Optional Form:

Service providers may utilize this form to certify a family's eligibility for SV to document households who are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, and/or human trafficking. In response to this request, the service provider may complete this form and submit it to the Public Housing Agency (PHA) to certify eligibility for the U.S. Department of Housing and Urban Development's (HUD) Stability Voucher program.

Confidentiality:

All information provided during the referral process concerning the incident(s) of domestic violence, dating violence, dating violence, sexual assault, stalking, and human trafficking shall be kept confidential and such details shall not be entered into any shared database. Employees of the PHA will not have access to these details, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED ON BEHALF OF SURVIVORS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND/OR HUMAN TRAFFICKING

SV Applicant Name: _____

The applicant named above is a survivor of (please check from the list all that apply):

- Domestic Violence
- Dating Violence
- Sexual Assault
- Stalking
- Human Trafficking

This certifies that the above named individual or household meets the definition for persons who are fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking and/or human trafficking as these terms are defined under 34 U.S.C. Section 12291 of the Violence Against Women Act¹ and 22 U.S.C. Section 7102(11) of the Trafficking Victims Protection Act.²

I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Authorized Agency Representative Signature: _____

Date: _____

¹ The Violence Against Women Act protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

² The Victims of Trafficking and Violence Protection Act of 2000 provides assistance to victims of trafficking making housing, educational health care, job training and other federally-funded social service programs available to assist victims in rebuilding their lives.

EXHIBIT 19-3: SAMPLE SV MEMORANDUM OF UNDERSTANDING³

[** This sample document demonstrates the Memorandum of Understanding requirements for the administration of Stability Vouchers. Unless otherwise noted, all elements are required. **]

Memorandum of Understanding – Stability Vouchers

This Memorandum of Understanding (MOU) has been created and entered on **[Insert execution date]** by **[insert PHA name and address]** and **[insert CoC/VSP name and address]**.

I. Introduction and Goals

The **[insert PHA name]** and **[insert CoC/VSP name]** through the Stability Voucher (SV) Program seek to prevent and end homelessness among individuals and families who are experiencing or at-risk of homelessness, those fleeing or attempting to flee domestic violence dating violence, sexual assault, stalking, and human trafficking, and veterans and families that include a veteran family member that meets one of the proceeding criteria.

The Consolidated Appropriations Act, 2021 (Public Law 116-260) (2021 Act), makes available \$43,343,000 for new incremental voucher assistance under Section 8(o) of the United States Housing Act of 1937 for use by individuals and families experiencing or at-risk of homelessness; those fleeing or attempting to flee domestic violence, dating violence, sexual assault, and stalking; and veterans and families that include a veteran family member that meets one of the proceeding criteria.

The Further Consolidated Appropriations Act, 2022 (Public Law 117-103 (2022 Act) further provides that HUD may waive certain statutory and regulatory provisions to administer the SVs (except for requirements related to tenant rights and protections, rent setting, fair housing, nondiscrimination, labor standards and the environment) upon a finding that any such waivers or alternative requirements are necessary to facilitate the use of funds made available for SVs.

This Memorandum of Understanding (MOU) outlines the collaboration and commitment between **[insert PHA name]** and **[insert CoC/VSP name]** to pair Stability Vouchers with CoC-funded supportive services; and to collaborate with the CoC/VSP and other stakeholders to develop a prioritization plan for these vouchers.

Lead Agency Liaisons:

Name and title of PHA staff position:

Name and title CoC and/or VSP staff position:

³ If PHA policy in Section 19-VI.B. of this administrative plan states that a copy of the MOU will be attached at the end of this chapter as Exhibit 19-3, you may either fill in the language shown here or replace the text with the PHA's own MOU, then delete the word *sample*. If the PHA does not wish to attach its own MOU to the chapter, this statement should be removed from the policy in Section 19-VI.B.

II. Individuals and Families Eligibility under the Qualifying Categories

In order to be eligible for an SV, an individual or family must meet one of four eligibility categories:

- Homeless
- At risk of homelessness
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking
- Veterans

III. SV Roles and Responsibilities

A. PHA Roles and Responsibilities [**The following responsibilities are listed for example purposes. **]

1. Coordinate and consult with the CoC in developing the services and assistance to be offered under the SV services fee.
2. Accept direct referrals for eligible individuals and families through the CoC Coordinated Entry System.
3. Commit a sufficient number of staff and necessary resources to ensure that the application, certification, and voucher issuance processes are completed in a timely manner.
4. Commit a sufficient number of staff and resources to ensure that inspections of units are completed in a timely manner.
5. Designate a staff to serve as the lead SV liaison.
6. Comply with the provisions of this MOU.

B. CoC Roles and Responsibilities [**The following responsibilities are listed for example purposes. **]

1. Designate and maintain a lead SV liaison to communicate with the PHA.
2. Refer eligible individuals and families to PHA using the community's coordinated entry system.
3. Support eligible individuals and households in completing and applying for supportive documentation to accompany admissions application to the PHA (i.e., self-certifications, birth certificate, social security card, etc.).
4. Attend SV participant briefings when needed.

5. Assess all households referred for SV for mainstream benefits and supportive services available to support eligible individuals and families through their transition.
6. Identify and provide supportive services to SV families. (While SV participants are not required to participate in services, the CoC should assure that services are available and accessible.)
7. Comply with the provisions of this MOU.

IV. CoC-funded supportive services that will be paired with SVs

CoCs are encouraged to outline any existing partnerships with health and behavioral health care providers and agencies, state Medicaid agencies and agencies and organizations that may be leveraged to provide ongoing tenancy and wrap-around supportive services for those that may benefit from such services to maintain housing stability. All services provided by the CoC must be outlined in the MOU with the CoC and should demonstrate the community's strategy to coordinate assistance through available resources. HUD recommends that PHAs and partnering CoCs seek a diverse range of supportive services by partnering with organizations trusted by people experiencing homelessness.

V. PHA Adopted Waivers and Alternative Requirements

Notice PIH 2022-24 provides **[insert PHA name]** with authority to adopt certain statutory and regulatory requirements and alternative requirements for Stability Vouchers. **[insert PHA name]** and **[insert CoC/VSP name]** have agreed to adopt the following waivers and alternative requirements:

[List all waivers and alternative requirements discussed, agreed upon by the PHA and CoC for the administration of SVs]

VI. PHA Permissive Prohibition Policies agreed upon by the PHA and CoC

[Insert PHA name] in consultation with **[insert CoC/VSP name]** have agreed to adopt the following permissive prohibitions for the Stability Voucher program:

[List any permissive prohibition policies agreed upon by the PHA and CoC]

VII. Program Evaluation

[Insert PHA name] and [insert CoC /VSP] agree to cooperate with HUD, provide requested data to HUD or HUD-approved contractor delegated the responsibility of program evaluation protocols established by HUD or HUD-approved contractor.

Signed By:

Public Housing Agency Executive Director

Date

CoC/VSP Executive Director

Date

Temporary Policy Supplement

EMERGENCY HOUSING VOUCHERS (EHVs)

INTRODUCTION

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARP) (P.L. 117-2). Section 3202 of the ARP appropriated \$5 billion for the creation, administration, and renewal of new incremental emergency housing vouchers (EHVs) and other eligible expenses related to COVID-19.

On May 5, 2021, HUD issued Notice PIH 2021-15, which described HUD's process for allocating approximately 70,000 EHVs to eligible PHAs and set forth the operating requirements for PHAs who administer them. Based on criteria outlined in the notice, HUD notified eligible PHAs of the number of EHVs allocated to their agency, and PHAs were able to accept or decline the invitation to participate in the program.

PHAs may not project-base EHVs; EHVs are exclusively tenant-based assistance.

All applicable nondiscrimination and equal opportunity requirements apply to the EHV program, including requirements that the PHA grant reasonable accommodations to persons with disabilities, effectively communicate with persons with disabilities, and ensure meaningful access for persons with limited English proficiency (LEP).

This chapter describes HUD regulations and PHA policies for administering EHVs. The policies outlined in this chapter are organized into seven sections, as follows:

Part I: Funding

Part II: Partnering Agencies

Part III: Waiting List Management

Part IV: Family Eligibility

Part V: Housing Search and Leasing

Part VI: Use of Funds, Reporting, and Financial Records

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to EHVs.

PART I: FUNDING

TPS-I.A. FUNDING OVERVIEW

The American Rescue Plan Act of 2021 (ARP) provides administrative fees and funding for the costs of administering emergency housing vouchers (EHVs) and other eligible expenses defined in Notice PIH 2021-15. These fees may only be used for EHV administration and other eligible expenses and must not be used for or applied to other PHA programs or vouchers. The PHA must maintain separate financial records from its regular HCV funding for all EHV funding.

Housing Assistance Payments (HAP) Funding

ARP funding obligated to the PHA as housing assistance payments (HAP) funding may only be used for eligible EHV HAP expenses (i.e., rental assistance payments). EHV HAP funding may not be used for EHV administrative expenses or for the eligible uses under the EHV services fee.

The initial funding term will expire December 31, 2022. HUD will provide renewal funding to the PHA for the EHVs on a calendar year (CY) basis commencing with CY 2023. The renewal funding allocation will be based on the PHA's actual EHV HAP costs in leasing, similar to the renewal process for the regular HCV program. EHV renewal funding is not part of the annual HCV renewal funding formula; EHVs are renewed separately from the regular HCV program. All renewal funding for the duration of the EHV program has been appropriated as part of the ARP funding.

Administrative Fee and Funding

The following four types of fees and funding are allocated as part of the EHV program:

- **Preliminary fees** support immediate start-up costs that the PHA will incur in implementing alternative requirements under EHV, such as outreach and coordination with partnering agencies:
 - \$400 per EHV allocated to the PHA, once the consolidated annual contributions contract (CACC) is amended.
 - This fee may be used for any eligible administrative expenses related to EHVs.
 - The fee may also be used to pay for any eligible activities under EHV service fees (TPS-I.B).

- **Placement fees/expedited issuance reporting fees** will support initial lease-up costs and the added cost and effort required to expedite leasing of EHV's:
 - \$100 for each EHV initially leased, if the PHA reports the voucher issuance date in Public Housing Information Center–Next Generation (PIC–NG) system within 14 days of voucher issuance or the date the system becomes available for reporting.
 - Placement fees:
 - o \$500 for each EHV family placed under a HAP contract effective within four months of the effective date of the ACC funding increment; or
 - o \$250 for each EHV family placed under a HAP contract effective after four months but less than six months after the effective date of the ACC funding increment.
 - o HUD will determine placement fees in the event of multiple EHV allocations and funding increment effective dates.
 - Placement/expedited issuance fees only apply to the initial leasing of the voucher; they are not paid for family moves or to turnover vouchers.
- **Ongoing administrative fees**, which are calculated in the same way as the standard HCV program:
 - PHAs are allocated administrative fees using the full column A administrative fee amount for each EHV under contract as of the first day of each month.
 - Ongoing EHV administrative fees may be subject to proration in future years, based on available EHV funding.
- **Services fees**, which are a one-time fee to support PHAs' efforts to implement and operate an effective EHV services program in its jurisdiction (TPS-I.B):
 - The fee is allocated once the PHA's CACC is amended to reflect EHV funding.
 - The amount allocated is \$3,500 for each EHV allocated.

TPS-I.B. SERVICE FEES

Services fee funding must be initially used for defined eligible uses and not for other administrative expenses of operating the EHV program. Service fees fall into four categories:

- Housing search assistance
- Security deposit/utility deposit/rental application/holding fee uses
- Owner-related uses
- Other eligible uses such as moving expenses or tenant-readiness services

The PHA must establish the eligible uses and the parameters and requirements for service fees in the PHA's administrative plan.

PHA Policy

The eligible uses for service fees include:

Housing search assistance, which may include activities such as, but not limited to, helping a family identify and visit potentially available units during their housing search, helping to find a unit that meets the household's disability-related needs, providing transportation and directions, assisting with the completion of rental applications and PHA forms, and helping to expedite the EHV leasing process for the family.

Application fees/non-refundable administrative or processing fees/refundable application deposit assistance. The PHA may choose to assist the family with some or all these expenses.

Holding fees are fees an owner requests that are rolled into the security deposit after an application is accepted but before a lease is signed. The PHA may cover part or all of the holding fee for units where the fee is required by the owner after a tenant's application has been accepted but before the lease signing. The PHA and owner must agree how the holding fee gets rolled into the deposit, and under what conditions the fee will be returned. In general, owners need to accept responsibility for making needed repairs to a unit required by the initial housing quality standards (HQS) inspections and can only keep the holding fee if the client is at fault for not entering into a lease.

Security deposit assistance. The amount of the security deposit assistance may not exceed the lesser of two months' rent to owner, the maximum security deposit allowed under applicable state and/or local law, or the actual security deposit required by the owner. The PHA may pay the security deposit assistance directly to the owner or may pay the assistance to the family. If paid to the family, the PHA will require documentation that the family paid the security deposit.

Utility deposit assistance/utility arrears. The PHA may provide utility deposit assistance for some or all of the family's utility deposit expenses. Assistance can be provided for deposits (including connection fees) required for the utilities to be supplied by the tenant under the lease. The PHA may pay the utility deposit assistance directly to the utility company or may pay the assistance to the family. If paid to the family, the PHA will require documentation the family paid the utility deposit. The PHA will require the utility supplier or family to return the utility deposit assistance to the PHA at such time the deposit is returned by the utility supplier (less any amounts retained by the utility supplier). In addition, some families may have large balances with gas, electric, water, sewer, or trash companies that will make it difficult if not impossible to establish services for tenant-supplied utilities. The PHA may also provide the family with assistance to help address these utility arrears to facilitate leasing. Utility deposit assistance returned to the PHA will be used for either services fee eligible uses or other EHV administrative costs, as required by HUD.

Owner recruitment and outreach for EHV's. The PHA may use the service fee funding to conduct owner recruitment and outreach specifically for EHV's. In addition to traditional owner recruitment and outreach, activities may include conducting pre-inspections or otherwise expediting the inspection process, providing enhanced customer service, and offering owner incentive and/or retention payments.

Owner incentive and/or retention payments. The PHA may make incentive or retention payments to owners that agree to initially lease their unit to an EHV family and/or renew the lease of an EHV family.

Payments will be made as a single payment at the beginning of the assisted lease term (or lease renewal if a retention payment). Owner incentive and retentions payments are not housing assistance payments, are not part of the rent to owner, and are not taken into consideration when determining whether the rent for the unit is reasonable.

Moving expenses (including move-in fees and deposits). The PHA may provide assistance for some or all of the family's reasonable moving expenses when they initially lease a unit with the EHV. The PHA will not provide moving expenses assistance for subsequent moves unless the family is required to move for reasons other than something the family did or failed to do (e.g., the PHA is terminating the HAP contract because the owner did not fulfill the owner responsibilities under the HAP contract or the owner is refusing to offer the family the opportunity to enter a new lease after the initial lease term, as opposed to the family choosing to terminate the tenancy in order to move to another unit), or a family has to move due to domestic violence, dating violence, sexual assault, or stalking.

Tenant-readiness services. The PHA may use fees to help create a customized plan to address or mitigate barriers that individual families may face in renting a unit with an EHV, such as negative credit, lack of credit, negative rental or utility history, or to connect the family to other community resources (including COVID-related resources) that can assist with rental arrears.

Essential household items. The PHA may use services fee funding to assist the family with some or all of the costs of acquiring essential household items such as tableware, cooking equipment, beds or bedding, and essential sanitary products such as soap and toiletries.

Renter's insurance if required by the lease. The PHA may choose to assist the family with some or all this cost.

Any services fee assistance that is returned to the PHA after its initial or subsequent use may only be applied to the eligible services fee uses defined in Notice PIH 2021-15 (or subsequent notice) or other EHV administrative costs. Any amounts not expended for these eligible uses when the PHA's EHV program ends must be remitted to HUD.

PART II: PARTNERING AGENCIES

TPS-II.A. CONTINUUM OF CARE (CoC)

PHAs that accept an allocation of EHV's are required to enter into a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) to establish a partnership for the administration of EHV's.

PHA Policy

The PHA has entered into an MOU with the Clackamas County Continuum of Care See Exhibit TPS-1 for a copy of the MOU.

TPS-II.B. OTHER PARTNERING ORGANIZATIONS

The PHA may, but is not required to, partner with other organizations trusted by persons experiencing homelessness, such as victim services providers (VSPs) and other community partners. If the PHA chooses to partner with such agencies, the PHA must either enter into an MOU with the partnering agency or the partnering agency may be added to the MOU between the PHA and CoC.

TPS-II.C. REFERRALS

CoC and Partnering Agency Referrals

The primary responsibility of the CoC under the MOU with the PHA is to make direct referrals of qualifying individuals and families to the PHA. The PHA must generally refer a family that is seeking EHV assistance directly from the PHA to the CoC or other referring agency for initial intake, assessment, and possible referral for EHV assistance. Partner CoCs are responsible for determining whether the family qualifies under one of the four eligibility categories for EHV's. The CoC or other direct referral partner must provide supporting documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance.

PHA Policy

The CoC or partnering agency must establish and implement a system to identify EHV-eligible individuals and families within the agency's caseload and make referrals to the PHA. The CoC or other partnering agency must certify that the EHV applicants they refer to the PHA meet at least one of the four EHV eligibility criteria. The PHA will maintain a copy of the referral or certification from the CoC or other partnering agency in the participant's file along with other eligibility paperwork. Homeless service providers may, but are not required to, use the certification form found in Exhibit TPS-2 of this chapter. Victim services providers may, but are not required to, use the certification form found in Exhibit TPS-3 of this chapter when identifying eligible families who qualify as victims of human trafficking.

As part of the MOU, the PHA and CoC or other partnering agency will identify staff positions to serve as lead EHV liaisons. These positions will be responsible for transmission and acceptance of referrals. The CoC or partnering agency must commit sufficient staff and resources to ensure eligible individuals and families are identified and determined eligible in a timely manner.

The PHA liaison responsible for acceptance of referrals will contact the CoC or partnering agency liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than five business days from the date the CoC or partnering agency receives this notification, the CoC or partnering agency liaison will provide the PHA with a list of eligible referrals including the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating they are EHV-eligible.

Offers of Assistance with CoC Referral

The PHA may make an EHV available without a referral from the CoC or other partnering organization in order to facilitate an emergency transfer under VAWA in accordance with the PHA's Emergency Transfer Plan (ETP) in Chapter 16.

The PHA must also take direct referrals from outside the CoC if:

- The CoC does not have a sufficient number of eligible families to refer to the PHA; or
- The CoC does not identify families that may be eligible for EHV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking.

If at any time the PHA is not receiving enough referrals or is not receiving referrals in a timely manner from the CoC or other partner referral agencies (or the PHA and CoC cannot identify any such alternative referral partner agencies), HUD may permit the PHA on a temporary or permanent basis to take EHV applications directly from applicants and admit eligible families to the EHV program in lieu of or in addition to direct referrals in those circumstances.

PART III: WAITING LIST MANAGEMENT

TPS-III. A. HCV WAITING LIST

The regulation that requires the PHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 4 does not apply to PHAs operating the EHV program. Direct referrals are not added to the PHA's HCV waiting list.

The PHA must inform families on the HCV waiting list of the availability of EHV by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2021-15.

PHA Policy

The PHA will post information about the EHV program for families on the PHA's HCV waiting list on their website. The notice will:

Describe the eligible populations to which EHV are limited

Clearly state that the availability of these EHV is managed through a direct referral process

Advise the family to contact the CoC (or any other PHA referral partner, if applicable) if the family believes they may be eligible for EHV assistance

The PHA will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities in accordance with Chapter 2. The PHA will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 2.

TPS-III.B. EHV WAITING LIST

The HCV regulations requiring the PHA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the EHV program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the EHV available, the PHA must maintain a separate waiting list for EHV referrals, both at initial leasing and for any turnover vouchers that may be issued prior to September 30, 2023.

Further, the EHV waiting list is not subject to PHA policies in Chapter 4 regarding opening and closing the HCV waiting list. The PHA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the EHV waiting list.

TPS-III.C. PREFERENCES

HCV Waiting List Preferences

If local preferences are established by the PHA for HCV, they do not apply to EHV. However, if the PHA has a homeless preference or a VAWA preference for the HCV waiting list, the PHA must adopt additional policies related to EHV in accordance with Notice PIH 2021-15.

PHA Policy

The PHA does not offer either a homeless or a VAWA preference for the HCV waiting list.

EHV Waiting List Preferences

With the exception of a residency preference, the PHA may choose, in coordination with the CoC and other referral partners, to establish separate local preferences for EHV. The PHA may, however, choose to not establish any local preferences for the EHV waiting list.

PHA Policy

No local preferences have been established for the EHV waiting list.

PART IV: FAMILY ELIGIBILITY

TPS-IV.A. OVERVIEW

The CoC or referring agency determines whether the individual or family meets any one of the four eligibility criteria described in Notice PIH 2021-15 and then refers the family to the PHA. The PHA determines that the family meets other eligibility criteria for the HCV program, as modified for the EHV program and outlined below.

TPS-IV.B. REFERRING AGENCY DETERMINATION OF ELIGIBILITY

In order to be eligible for an EHV, an individual or family must meet one of four eligibility criteria:

- Homeless as defined in 24 CFR 578.3;
- At risk of homelessness as defined in 24 CFR 578.3;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking (as defined in Notice PIH 2021-15), or human trafficking (as defined in the 22 U.S.C. Section 7102); or
- Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability as determined by the CoC or its designee in accordance with the definition in Notice PIH 2021-15.

As applicable, the CoC or referring agency must provide documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance. The PHA must retain this documentation as part of the family's file.

TPS-IV.C. PHA SCREENING

Overview

HUD waived 24 CFR 982.552 and 982.553 in part for the EHV applicants and established alternative requirement for mandatory and permissive prohibitions of admissions. Except where applicable, PHA policies regarding denials in Chapter 3 of this policy do not apply to screening individuals and families for eligibility for an EHV. Instead, the EHV alternative requirement listed in this section will apply to all EHV applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2021-15 and in this chapter, however, apply only when screening the individual or family for eligibility for an EHV. When adding a family member after the family has been placed under a HAP contract with EHV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 in doing so.

Mandatory Denials

Under alternative requirements for the EHV program, mandatory denials for EHV applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

The PHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited EHV grounds for denial of admission first.

PHA Policy

While the PHA will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, the PHA will first notify the family of the limited EHV grounds for denial of admission as part of the notice of denial that will be mailed to the family.

Permissive Denial

Notice PIH 2021-15 lists permissive prohibitions for which the PHA may, but is not required to, deny admission to EHV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for EHV families.

If the PHA intends to establish permissive prohibition policies for EHV applicants, the PHA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

PHA Policy

In consultation with the CoC, the PHA will apply permissive prohibition to the screening of EHV applicants. Determinations using permissive prohibitions will be made based on an individualized assessment of relevant mitigating information in accordance with policies in Section 3-III.E.

The PHA will establish the following permissive prohibitions:

If the PHA determines that any household member is currently engaged in, or has engaged in within the previous 12 months:

Violent criminal activity

Other 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

If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program within the previous 12 months.

If the family engaged in or threatened abusive or violent behavior toward PHA personnel within the previous 12 months.

The PHA will also deny assistance to household members already receiving assistance from another program in accordance with Section 9.h. of Notice PIH 2021-15.

Prohibitions based on criminal activity for the eligible EHV populations regarding drug possession will be considered apart from criminal activity against persons (i.e., violent criminal activity).

In compliance with PIH 2021-15, the PHA **will not** deny an EHV applicant admission regardless of whether:

Any member of the family has been evicted from federally assisted housing in the last five years;

A PHA has ever terminated assistance under the program for any member of the family;

The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act;

The family has not reimbursed any PHA for amounts 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 breached an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA;

The family would otherwise be prohibited admission under alcohol abuse standards established by the PHA in accordance with 24 CFR 982.553(a)(3);

The PHA determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission, drug-related criminal activity.

TPS-IV.D. INCOME VERIFICATION AT ADMISSION

Self-Certification at Admission

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the EHV program applicants at admission, and alternatively, PHAs may consider self-certification the highest form of income verification at admission. As such, PHA policies related to the verification of income in Section 7-I.B. do not apply to EHV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of the PHA's request.

PHA Policy

Any documents used for verification must be the original (not photocopies) and dated within the 60-day period prior to admission. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

Any family self-certifications must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified.

The PHA will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 14. The PHA will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. The PHA 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 PHA will terminate the family's assistance in accordance with the policies in Chapter 12.

Recently Conducted Income Determinations

PHAs may accept income calculations and verifications from third-party providers or from an examination that the PHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

- The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and
- The family certifies there has been no change in income or family composition in the interim.

PHA Policy

The PHA will accept income calculations and verifications from third-party providers provided they meet the criteria outlined above.

The family certification must be made in a format acceptable to the PHA and must be signed by all adult family members whose information or status is being verified.

At the time of the family's annual reexamination the PHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and PHA policies in Chapter 11.

EIV Income Validation

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, the PHA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with PHA policies in Chapter 3.

If a PHA later determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program in accordance with Chapter 12.

TPS-IV.E. SOCIAL SECURITY NUMBER AND CITIZENSHIP STATUS VERIFICATION

For the EHV program, the PHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program. Instead, PHAs may adopt policies to admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless the PHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

PHA Policy

The PHA will admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. These individuals must provide the required documentation in accordance with policies in Chapter 7 within 180 days of admission. The PHA may provide an additional 60-day extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If the PHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

TPS-IV.F. AGE AND DISABILITY VERIFICATION

PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

PHA Policy

The PHA will accept self-certification of date of birth and disability status if a higher form of verification is not immediately available. The certification must be made in a format acceptable to the PHA and must be signed by the family member whose information or status is being verified. If self-certification is accepted, within 90 days of admission, the PHA will verify the information in EIV or through other third-party verification if the information is not available in EIV. The PHA will note the family's file that self-certification was used as initial verification and include an EIV printout or other third-party verification confirming the applicant's date of birth and/or disability status.

If the PHA determines that an ineligible family received assistance, the PHA will take steps to terminate that family from the program in accordance with policies in Chapter 12.

TPS-IV.G. INCOME TARGETING

The PHA must determine income eligibility for EHV families in accordance with 24 CFR 982.201 and PHA policy in Chapter 3; however, income targeting requirements do not apply for EHV families. The PHA may still choose to include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

PHA Policy

The PHA will not include the admission of extremely low-income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.

PART V: HOUSING SEARCH AND LEASING

TPS-V.A. INITIAL VOUCHER TERM

Unlike the standard HCV program, which requires an initial voucher term of at least 60 days, EHV vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

PHA Policy

All EHV's will have an initial term of 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless the PHA grants an extension.

TPS-V.B. HOUSING SEARCH ASSISTANCE

The PHA must ensure housing search assistance is made available to EHV families during their initial housing search. The housing search assistance may be provided directly by the PHA or through the CoC or another partnering agency or entity.

At a minimum, housing search assistance must:

- Help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods;
- Provide transportation assistance and directions to potential units;
- Conduct owner outreach;
- Assist with the completion of rental applications and PHA forms; and
- Help expedite the EHV leasing process for the family

PHA Policy

As identified in the MOU between the PHA and CoC, the following housing search assistance will be provided to each EHV family:

The PHA will:

Conduct owner outreach in accordance with policies in Chapter 13

Provide directions to potential units as part of the EHV briefing packet

Expedite the EHV leasing process for the family to the extent practicable and in accordance with policies in this chapter

At least every 30 days, conduct proactive check-ins via email and telephone with families who are searching with an EHV and remind them of their voucher expiration date

Assign a dedicated landlord liaison for EHV voucher families

The CoC will:

Help families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods

Provide transportation assistance to potential units

Assist the family with the completion of rental applications and PHA forms

TPS-V.C. HQS PRE-INSPECTIONS

To expedite the leasing process, PHAs may pre-inspect available units that EHV families may be interested in leasing in order to maintain a pool of eligible units.

PHA Policy

To expedite the leasing process, the PHA may pre-inspect available units that EHV families may be interested in leasing to maintain a pool of eligible units. If an EHV family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305.

The family will be free to select his or her unit.

When a pre-inspected unit is not selected, the PHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for any required reinspections.

TPS-V.D. INITIAL LEASE TERM

Unlike in the standard the HCV program, EHV voucher holders may enter into an initial lease that is for less than 12 months, regardless of the PHA policy in Section 9-I.E., Term of Assisted Tenancy.

TPS-V.E. PORTABILITY

The normal HCV portability procedures and requirements outlined in Chapter 10 generally apply to EHV. Exceptions are addressed below.

Nonresident Applicants

Under EHV, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied, regardless of PHA policy in Section 10-II.B.

Billing and Absorption

A receiving PHA cannot refuse to assist an incoming EHV family, regardless of whether the PHA administers EHV under its own ACC.

- If the EHV family moves under portability to another PHA that administers EHV under its own ACC:
 - The receiving PHA may only absorb the incoming EHV family with an EHV (assuming it has an EHV voucher available to do so).
 - If the PHA does not have an EHV available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with EHV assistance and may not absorb the family with a regular HCV when the family leases the unit.
 - Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's EHV assistance, the EHV administration of the voucher is in accordance with the receiving PHA's EHV policies.
- If the EHV family moves under portability to another PHA that does not administer EHV under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

Family Briefing

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA must inform the family how portability may impact the special EHV services and assistance that may be available to the family.

The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

PHA Policy

In addition to following PHA policy on briefings in Chapter 5, as part of the briefing packet for EHV families, the PHA will include a written notice that the PHA will assist the family with moves under portability.

For limited English proficient (LEP) applicants, the PHA will provide interpretation services in accordance with the PHA's LEP plan (See Chapter 2).

Coordination of Services

If the portability move is in connection with the EHV family's initial lease-up, the receiving PHA and the initial PHA must consult and coordinate on the EHV services and assistance that will be made available to the family.

PHA Policy

For EHV families who are exercising portability, when the PHA contacts the receiving PHA in accordance with Section 10-II.B. Preapproval Contact with Receiving PHA, the PHA will consult and coordinate with the receiving PHA to ensure there is no duplication of EHV services and assistance, and ensure the receiving PHA is aware of the maximum amount of services fee funding that the initial PHA may provide to the receiving PHA on behalf of the family.

Services Fee

Standard portability billing arrangements apply for HAP and ongoing administrative fees for EHV families.

For service fees funding, the amount of the service fee provided by the initial PHA may not exceed the lesser of the actual cost of the services and assistance provided to the family by the receiving PHA or \$1,750, unless the initial PHA and receiving PHA mutually agree to change the \$1,750 cap. Service fees are paid as follows:

- If the receiving PHA, in consultation and coordination with the initial PHA, will provide eligible services or assistance to the incoming EHV family, the receiving PHA may be compensated for those costs by the initial PHA, regardless of whether the receiving PHA bills or absorbs.
- If the receiving PHA administers EHV, the receiving PHA may use its own services fee and may be reimbursed by the initial PHA, or the initial PHA may provide the services funding upfront to the receiving PHA for those fees and assistance.
- If the receiving PHA does not administer EHV, the initial PHA must provide the services funding upfront to the receiving PHA. Any amounts provided to the receiving PHA that are not used for services or assistance on behalf of the EHV family must promptly be returned by the receiving PHA to the initial PHA.

Placement Fee/Issuance Reporting Fee

If the portability lease-up qualifies for the placement fee/issuance reporting fee, the receiving PHA receives the full amount of the placement component of the placement fee/issuing reporting fee. The receiving PHA is eligible for the placement fee regardless of whether the receiving PHA bills the initial PHA or absorbs the family into its own program at initial lease-up. The initial PHA qualifies for the issuance reporting component of the placement fee/issuance reporting fee, as applicable.

TPS-V.F. PAYMENT STANDARDS

Payment Standard Schedule

For the EHV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the PHA may, but is not required to, establish separate higher payment standards for EHV. Lower EHV payment standards are not permitted. If the PHA is increasing the regular HCV payment standard, the PHA must also increase the EHV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate EHV payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if the PHA chooses to establish higher payments standards for EHV, HUD has provided other regulatory waivers:

- Defining the “basic range” for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).
- Allowing a PHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published SAFMRs. The PHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.
 - The PHA must notify HUD if it establishes an EHV exception payment standard based on the SAFMR.

PHA Policy

The PHA will not establish a higher payment standard amount for EHV. The PHA will use the same payment standards for HCV and EHV.

Rent Reasonableness

All rent reasonableness requirements apply to EHV units, regardless of whether the PHA has established an alternative or exception EHV payment standard.

Increases in Payment Standards

The requirement that the PHA apply increased payment standards at the family’s first regular recertification on or after the effective date of the increase does not apply to EHV. The PHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family’s first regular reexamination following the change.

PHA Policy

The PHA will not establish an alternative policy for increases in the payment standard. PHA policy in Section 11-III.B. governing increases in payment standards will apply to EHV.

TPS-V.G. TERMINATION OF VOUCHERS

After September 30, 2023, a PHA may not reissue EHV when assistance for an EHV-assisted family ends. This means that when an EHV participant (a family that is receiving rental assistance under a HAP contract) leaves the program for any reason, the PHA may not reissue that EHV to another family unless it does so no later than September 30, 2023.

If an applicant family that was issued the EHV is unsuccessful in finding a unit and the EHV expires after September 30, 2023, the EHV may not be reissued to another family.

All EHV under lease on or after October 1, 2023, may not under any circumstances be reissued to another family when the participant leaves the program for any reason.

An EHV that has never been issued to a family may be initially issued and leased after September 30, 2023, since this prohibition only applies to EHV that are being reissued upon turnover after assistance to a family has ended. However, HUD may direct PHAs administering EHV to cease leasing any unleased EHV if such action is determined necessary by HUD to ensure there will be sufficient funding available to continue to cover the HAP needs of currently assisted EHV families.

PART VI: USE OF FUNDS, REPORTING, AND FINANCIAL RECORDS

EHV funds allocated to the PHA for HAP (both funding for the initial allocation and HAP renewal funding) may only be used for eligible EHV HAP purposes. EHV HAP funding obligated to the PHA may not be used for EHV administrative expenses or the other EHV eligible expenses under this notice. Likewise, EHV administrative fees and funding obligated to the PHA are to be used for those purposes and must not be used for HAP.

The appropriated funds for EHV are separate from the regular HCV program and may not be used for the regular HCV program but may only be expended for EHV eligible purposes. EHV HAP funds may not roll into the regular HCV restricted net position (RNP) and must be tracked and accounted for separately as EHV RNP. EHV administrative fees and funding for other eligible expenses permitted by Notice PIH 2021-15 may only be used in support of the EHV and cannot be used for regular HCVs. EHV funding may not be used for the repayment of debts or any amounts owed to HUD by HUD program participants including, but not limited to, those resulting from Office of Inspector General (OIG), Quality Assurance Division (QAD), or other monitoring review findings.

The PHA must comply with EHV reporting requirements in the Voucher Management System (VMS) and Financial Data Schedule (FDS) as outlined in Notice PIH 2021-15.

The PHA must maintain complete and accurate accounts and other records for the program and provide HUD and the Comptroller General of the United States full and free access to all accounts and records that are pertinent the administration of the EHV in accordance with the HCV program requirements at 24 CFR 982.158.

Exhibit TPS-1: MEMORANDUM OF UNDERSTANDING (MOU)

Attachment 2 of Notice PIH 2021-15 - Sample MOU Template

Memorandum of Understanding

[** This sample document demonstrates the Memorandum of Understanding requirements for the administration Emergency Housing Voucher. Unless otherwise noted, all elements are required. **]

This Memorandum of Understanding (MOU) has been created and entered into on
[** Insert execution date. **].

[PHA Name and Address]

[CoC Name and Address]

- I. Introduction and Goals (the following elements, listed in a. – c., are required elements of the MOU):
- a. PHA and CoC’s commitment to administering the EHV’s in accordance with all program requirements.
 - b. PHA goals and standards of success in administering the program.
 - c. Identification of staff position at the PHA and CoC who will serve as the lead EHV liaisons.

Lead HCV Liaison:

[Name and title of PHA staff position]

Responsibilities of the PHA EHV liaison ***[**Optional**]***.

[Name and title of CoC staff position]

Responsibilities of the CoC EHV liaison ***[**Optional**]***.

- II. Define the populations eligible for EHV assistance to be referred by CoC.

III. Services to be provided to eligible EHV families

1. List the services to be provided to assist individuals and families have success in the program and who will provide them.

[**The following services are listed for example purposes. **]

1. Partnering service providers will support individuals and families in completing applications and obtaining necessary supporting documentation to support referrals and applications for assistance; while aiding households in addressing barriers.
2. Partnering service providers will support PHAs in ensuring appointment notifications to eligible individuals and families and will assist eligible households in getting to meetings with the PHA.
3. PHAs will establish windows of time for EHV applicants to complete intake interviews for EHV.
4. Partnering service providers will provide housing search assistance for eligible individuals and families.
5. Partnering service providers will provide counseling on compliance with rental lease requirements.
6. Partnering service providers will assess individuals and families who may require referrals for assistance on security deposits, utility hook-up fees, and utility deposits.
7. Partnering service providers will assess and refer individuals and families to benefits and supportive services, where applicable.

IV. PHA Roles and Responsibilities

[**The following responsibilities are listed for example purposes. **]

1. Coordinate and consult with the CoC in developing the services and assistance to be offered under the EHV services fee.
2. Accept direct referrals for eligible individuals and families through the CoC Coordinated Entry System.
3. Commit a sufficient number of staff and necessary resources to ensure that the application, certification, and voucher issuance processes are completed in a timely manner.
4. Commit a sufficient number of staff and resources to ensure that inspections of units are completed in a timely manner.
5. Designate a staff to serve as the lead EHV liaison.
6. Comply with the provisions of this MOU.

V. CoC Roles and Responsibilities

[**The following responsibilities are listed for example purposes. **]

1. Designate and maintain a lead EHV liaison to communicate with the PHA.
2. Refer eligible individuals and families to PHA using the community's coordinated entry system.
3. Support eligible individuals and households in completing and applying for supportive documentation to accompany admissions application to the PHA (i.e. self-certifications, birth certificate, social security card, etc.).
4. Attend EHV participant briefings when needed.
5. Assess all households referred for EHV for mainstream benefits and supportive services available to support eligible individuals and families through their transition.
6. Identify and provide supportive services to EHV families. (While EHV participants are not required to participate in services, the CoC should assure that services are available and accessible.)
7. Comply with the provisions of this MOU.

VI. Third Party Entity Roles Responsibilities

[**The following responsibilities are listed for example purposes. **]

1. Describe how the State, local, philanthropic, faith-based organizations, Victim Service Providers or CoC recipients it designates will fulfill each of the following responsibilities:
 - a. Outline resource and/or service being provided in support of the community's EHV Program. Commit a sufficient number of staff and necessary resources to ensure that the application, certification and voucher issuance processes are completed in a timely manner.
 - b. Comply with the provisions of this MOU. VII. Program Evaluation

The PHA, and CoC or designated CoC recipient agree to cooperate with HUD, provide requested data to HUD or HUD-approved contractor delegated the responsibility of program evaluation protocols established by HUD or HUD-approved contractor, including possible random assignment procedures.

[Signed and dated by the official representatives of the PHA, CoC, CoC Contractor organization (if applicable), and third-party entities (if applicable).]

Signed by

Executive Director, PHA

Date

CoC Executive Director

Date

Exhibit TPS-2: HOMELESS PROVIDER'S CERTIFICATION

Attachment 3 of Notice PIH 2021-15 Example of a Homeless Provider's Certification

Emergency Housing Voucher (EHV)

HOMELESS CERTIFICATION

EHV Applicant Name: _____

Household without dependent children (complete one form for each adult in the household)

Household with dependent children (complete one form for household)

Number of persons in the household: _____

This is to certify that the above named individual or household meets the following criteria based on the check mark, other indicated information, and signature indicating their current living situation-

Check only one box and complete only that section

Living Situation: place not meant for human habitation (e.g., cars, parks, abandoned buildings, streets/sidewalks)

The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) a public or private place not designed for, or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus station, airport, or camp ground.

Description of current living situation:

Homeless Street Outreach Program

Name: _____

This certifying agency must be recognized by the local Continuum of Care (CoC) as an agency that has a program designed to serve persons living on the street or other places not meant for human habitation. Examples may be street outreach workers, day shelters, soup kitchens, Health Care for the Homeless sites, etc.

Authorized Agency Representative Signature: _____

Date: _____

Living Situation: Emergency Shelter

The person(s) named above is/are currently living in (or, if currently in hospital or other institution, was living in immediately prior to hospital/institution admission) a supervised publicly or privately operated shelter as follows:

Emergency Shelter Program Name: _____

This emergency shelter must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to HUD or otherwise be recognized by the CoC as part of the CoC inventory (e.g., newly established Emergency Shelter).

Authorized Agency Representative Signature: _____ Date
: _____

Living Situation: Recently Homeless

The person(s) named above is/are currently receiving financial and supportive services for persons who are homeless. Loss of such assistance would result in a return to homelessness (ex. Households in Rapid Rehousing Programs, residents of Permanent Supportive Housing Programs participating in Moving On, etc.)

Authorized Agency Representative Signature: _____

This referring agency must appear on the CoC's Housing Inventory Chart submitted as part of the most recent CoC Homeless Assistance application to HUD or otherwise be recognized by the CoC as part of the CoC inventory.

Immediately prior to entering the household's current living situation, the person(s) named above was/were residing in:

emergency shelter OR a place unfit for human habitation

Authorized Agency Representative Signature: _____
Date: _____

Exhibit TPS-3: EXAMPLE OF A VICTIM SERVICES PROVIDER'S CERTIFICATION

Attachment 4 of Notice PIH 2021-15: Example of a Victim Services Provider's Certification

Emergency Housing Voucher (EHV)

SAMPLE HUMAN TRAFFICKING CERTIFICATION

Purpose of Form:

The Victims of Trafficking and Violence Protection Act of 2000 provides assistance to victims of trafficking making housing, educational health care, job training and other Federally-funded social service programs available to assist victims in rebuilding their lives.

Use of This Optional Form:

In response to this request, the service provider may complete this form and submit it to the Public Housing Agency (PHA) to certify eligibility for EHV assistance.

Confidentiality: All information provided to the service provider concerning the incident(s) of human trafficking shall be kept confidential and such details shall not be entered into any shared database. Employees of the PHA will not have access to these details, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED ON BEHALF OF HUMAN TRAFFICKING SURVIVOR

EHV Applicant Name: _____

This is to certify that the above named individual or household meets the definition for persons who are fleeing or attempting to flee human trafficking under section 107(b) of the Trafficking Victims Protection Act of 2000.

Immediately prior to entering the household's current living situation, the person(s) named above was/were residing in:

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual(s) named above is/has been a victim of human trafficking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Authorized Agency Representative Signature: _____ **Date:** _____

Chapter 21 Shelter Plus Care (SPC or S+C)

Shelter Plus Care Program (S+C)

Index:

Section 1: Program Introduction

Section 2: Eligible Activities and Participants

Section 3: Leasing, Income, Recertification

Section 4: Supportive Services Match

Section 5: Financial Management: Claims, Cost Savings, LOCCS

Section 6: Reporting Requirements: Completing the Annual Progress Report (APR), HMIS & Closeout

Conflict of Interest

Forms needed for the program. Contact S+C Coordinator at HACC.

S+C Application including:

Homeless Documentation Form, includes HUD definition of homeless and chronic homelessness
Disability Form,
Program Agreement
Release Form,
Income Form,
Zero Income Affidavits

S+C Landlord Lease Packet includes:

Participant Form with Contractor (TRA)
Request for Unit Approval Form (TRA Scattered site)
Rental Assistance Payment Contract with Landlord and Contractor (TRA)
Lease Addendum (TRA)
Rent Reasonable Form (TRA)
Rental Calculation Form (TRA)
Housing Quality Inspection Form (HQS) TRA
Landlord Lease Agreement or Rental Agreement

Section 1: Program Introduction

The Shelter Plus Care (S+C) program is authorized under the McKinney-Vento Homeless Assistance Act. The current S+C program operates under the Continuum of Care program. The program is a Housing First model. Housing First is an approach to quickly and successfully connect individuals and families experiencing homelessness to permanent housing without preconditions and barriers to entry, such as sobriety, treatment or service participation requirements. Supportive services are offered to maximize housing stability and prevent returns to homelessness as opposed to addressing predetermined treatment goals prior to permanent housing entry. Families are pulled off the Coordinated Housing Access (CHA) wait list that is used for all Clackamas County Continuum of Care Programs for the jurisdiction of Clackamas County.

The S+C program was built on the premise that housing and services need to be connected in order to ensure the stability of housing for this population. Consequently, S+C provides rental assistance that local service providers match with no less than 25% of grant value of supportive services appropriate to the target population.

Local S+C projects are typically implemented through partnerships that include:

- a Housing Authority;
- one or more nonprofit housing sponsors that coordinate leasing of housing for program participants; and
- a network of supportive services providers.

Program Purpose:

The purpose of the program is to provide permanent housing in connection with supportive services to homeless people with disabilities and their families.

The program provides rental assistance and assistance for utilities for a variety of housing choices, accompanied by a range of supportive services funded by other sources.

Program Goals:

The goals of the S+C Program are to assist homeless individuals and their families to:

- Increase their housing stability;
- Increase their skills and/or income; and
- Obtain greater self-sufficiency.

HACCs, Sponsors, and Supportive Services Providers:

At the local level, S+C projects typically involve a partnership among a HACC agency, one or more housing sponsors, and a network of supportive services providers.

- HACC is ultimately responsible for the S+C grant, but may either administer the local project directly or delegate project responsibilities to one or more sponsors. Sponsors usually provide housing search assistance to homeless people with disabilities. Sponsors may also provide supportive services.
- Supportive services providers enable participants to maintain stable housing, address their social service and treatment needs, build skills, and enhance their ability to make decisions about their lives.

Program participants pay 30% monthly adjusted gross income or 10% of their monthly gross income (whichever is higher) of their income towards rent and S+C subsidizes the remaining portion of the rent.

Supportive services should be accessible and flexible and target housing stability. The tenant's needs and goals should be clearly reflected in the design of the supportive services program. Service programs may require adjustment as the needs and interests of individual tenants evolve and change. Support services should help ensure stability, maximize each tenant's ability to be self-sufficient, and be appealing and easily accessible.

Projects vary in how they provide services, but they uniformly stress housing stability as a basic and primary goal. In promoting housing stability, service providers focus on helping tenants meet their lease obligations, including paying rent, maintaining a safe and healthy living environment, allowing others the peaceful enjoyment of their homes and complying with lease obligations. In addition, services should foster, to the extent possible, independent living.

Section 2: Eligible Activities and Participants

To be eligible for assistance, the participants must meet particular guidelines. The individual or family applying for assistance must be **homeless and disabled**. HACC has established an additional policy of only serving very low or extremely low income families (50% or below).

Definition of Homeless and Documentation requirements one of two definitions:

To be assisted under Shelter Plus Care the family must either be Literally Homeless (Category 1) or Fleeing Domestic Violence (Category 4) as defined:

Category 1 Literally Homeless is an individual or family who lacks a fixed, regular and adequate nighttime residence, meaning:

- (i) Has a primary nighttime residence that is a public or private place not meant for human habitation;
- (ii) Is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, hotels and motels paid for by charitable organizations or by federal, state or local government programs); or
- (iii) Is exiting an institution where (s) he has resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

Category 4 Fleeing/Attempting to Flee Domestic Violence is any individual or family who:

- (i) Is fleeing or is attempting to flee, domestic violence;
- (ii) Has no other residence; and
- (iii) Lacks the resources or support networks to obtain other permanent housing.

Additionally, individuals and families may qualify if they come from transitional housing and were eligible under Category 1 or 4 prior to entering the transitional housing.

Acceptable evidence of the homeless as status is set forth in 24 CFR 576.500(b). The type of acceptable documentation depends on the category of homelessness, and there is a hierarchy of preferred types of documentation. Generally, 3rd party documentation is preferred followed by intake worker direct observation then certification from the person seeking assistance. See https://www.hudexchange.info/resources/documents/HomelessDefinition_RecordkeepingRequirementsandCriteria.pdf.

Homeless Documentation will be used including but not limited to:

- Written observation by the outreach worker; or
- Written referral by another housing or service provider; or

- Certification by the individual or head of household seeking assistance stating that (s)he has living on the streets or in shelter;
- For individuals exiting an institution – one of the forms of evidence above and:
 - ✓ Discharge paperwork or written/oral referral, or
 - ✓ Written record of intake worker's due diligence to obtain above evidence and certification by individual that they exited institution
- For victims of Domestic Violence working with a service provider an oral statement by the individual or head of household seeking assistances which states they are fleeing; they have no subsequent residence and they lack resources. Statement must be documented by a self-certification or a certification by the intake worker.
- For victims of Domestic Violence not working with a service provider an oral statement by the individual or head of household seeking assistance that they are fleeing. This statement is documented by a self-certification or by a case worker. Where the safety of the individual or family is not jeopardized, the oral statement must be verified and Certification by the individual or head of household that no subsequent residence has been identified and self-certification or other written documentation that the family lacks the financial resources and support networks to obtain other permanent housing.

Definition of Disability and Documentation:

The definition of disabled [24 CFR Part 578] that is used as the basis for determining eligibility in the S+C program is the same as that used in the Section 811 (Supportive Housing for Persons with Disabilities) program.

Persons with disabilities are defined as:

"Persons with disabilities" — a household composed of one or more persons at least one of whom is an adult who has a disability. A minor child with a disability would not qualify for S+C.

1. A person shall be considered to have a disability if such person has a physical, mental, or emotional impairment which is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently; and is of such nature that such ability could be improved by more suitable housing conditions.

Results in substantial functional limitations in three or more of the following areas of major life activity;

- (A) Self-care
- (B) Receptive and expressive language;
- (C) Learning;
- (D) Mobility;
- (E) Self-direction;
- (F) Capacity for independent living; and
- (G) Economic self-sufficiency; and

-Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.

2. Participants must have a **disability** that the need for treatment is expected to be of a long, continued, and indefinite duration; the disability **substantially impedes** his/her ability to live independently and that the disability could be improved by more suitable housing conditions. For example, drug or alcohol abuse or an HIV/AIDS condition that does not substantially impede a person's ability to live independently and **does not** qualify as a disability in the S+C Program.

The primary disabilities with the program are:

- The individual has a primary diagnosis of a serious mental illness.
- A disability that includes drug and/or alcohol abuse or dependency or both
- An individual diagnosed with AIDS/HIV to be eligible.

Acceptable evidence of a disability includes:

- Written verification of the disability from a professional licensed by the state to diagnose and treat the disability and his or her certification that the disability is expected to be long-continuing or of indefinite duration and substantially impedes the individual's ability to live independently; OR
- Written verification from the Social Security Administration; OR
- The receipt of a disability check; OR • Intake staff-recorded observation of a disability that, no later than 45 days of the application for assistance, is confirmed and accompanied by evidence in this; OR
- Other documentation approve by HUD.

It is important to remember that a participant only needs to be diagnosed with one disability to be eligible, yet they must be homeless.

Written documentation that a person's disability meets the program definition must come from a credentialed psychiatric or medical professional trained to make such a determination. The possession of a title such as case manager or substance abuse counselor does not by itself qualify a person to make that determination. "Self-certification" is also unacceptable.

Eligible Activities:

The statute that created the S+C program strictly limits the kinds of activities that may be funded through S+C grants. The eligible activities are: restricted to rental assistance for program participants and administrative costs associated with administering the rental assistance.

Rental Assistance

HACC makes housing affordable for program participants by using S+C grant funds to pay the difference between the actual rent for a unit and 30 percent of the participant's adjusted income. (See Section 3 for more information on determining allowable rent levels and calculating tenant rent payments.)

Rental assistance cannot be provided to a program participant who is already receiving rental assistance, or living in a housing unit receiving rental assistance or operating assistance through other federal, State, or local sources. Rent must be calculated as provided in § 578.77. Rents collected from program participants are program income and may be used as provided under § 578.97.

Rental assistance can take several forms:

- monthly rent payments;
- when necessary, a security deposit in an amount up to two month's rent;
- one month's rent for damages to unit; and
- one month's rent for housing units vacated by a program participant. The term "vacated" excludes brief periods of inpatient care (limited to 90 days for each occurrence). staff costs carrying out eligible activities

HACC Policy

For as long as the state funds a Landlord Guarantee Program that offers recovery for damages and vacancy loss, HACC will first defer landlords to this program for recovery related to damages and vacancy loss.

HACC will focus funding on rental assistance and will only approve other allowable expenditures such as security deposits if there is projected to be adequate funding in excess of rental assistance projections for the year.

Grant funds can also be used to help offset utility costs paid by the participant if utilities are not included in the rent. Where rent does not include utilities, the tenant's contribution is reduced to allow for a reasonable utility allowance.

HACC Policy

HACC retains and uses its utility allowance schedule that is used for all its Rental Assistance Programs.

Assistance to Non-citizens:

HUD offers the language below as guidance as follows:

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 impose restrictions on eligibility for receipt of public benefits. Governmental entities should consult with their legal counsel for interpretation. Nonprofit charitable organizations are not required to, but may, verify an applicant's citizenship or immigration status. If a nonprofit elects to do so, they should also consult with legal counsel, as they must follow the procedures required by the Act.

HACC Policy

HACC will follow its Housing Choice Voucher Policy on verifying citizenship status and will prorate benefits for noncitizens.

Tenant-based Rental Assistance (TRA) component:

Under the TRA component, an applicant may request funds to provide rental assistance on behalf of program participants who choose their own housing units. If a participant decides to move, he or she may take their rental assistance to the new housing unit.

Applicants are required to live in Clackamas County and HACC may choose to project base assistance with HUD prior approval that would require a particular structure for the first year of assistance.

HACC Policy

HACC may decline a program participant's request to choose housing or move outside of Clackamas County if the recipient or sub recipient is unable to comply with all CoC program requirements in the geographic area where the housing selected by the program participant. HACC may and will decline a program participant's request to choose housing or move outside of Clackamas County if the recipient or sub recipient cannot reasonably meet all statutory and regulatory program requirements.

For example if the jurisdiction selected cannot ensure the housing meets required Housing Quality Standards (HQS), because HACC requires a certified HQS inspector inspect the unit and provide documentation of inspection. HACC may reject a request to move to outside of Clackamas County.

With respect to a participant fleeing domestic violence, the regulations allow them to move outside Clackamas County subject to the program participant having complied with all program requirements during their residence and also being able to have housing meet the required HQS inspection requirements.

HACC may also deny a request if services cannot be monitored or provided to the client due to a move to an outside jurisdiction.

All requests will be decided on a case-by-case basis with the service provider that is aiding the family.

S+C Application Process for Participants:

All participants must do an intake with the Clackamas County's Continuum of Care's Coordinated Housing Access and will be placed on a wait list based on vulnerability. Once a family comes to the top of the wait list they need to complete the S+C Intake Application Packet with the Sponsor agency. Sponsors must have written documentation in the client's files that qualifies each participant as having met the program definition of disability and homeless criteria.

HMIS Intake and Discharge Forms from the HMIS system,
Documentation of Disability Form,
Homeless Documentation Form, Chronic Homeless form if needed
Confidentiality Release Form,
Income Documentation Form.
Zero Income Affidavits

Section 3: Locating Housing, Occupancy and Rent Determination:

Participants may search for a studio, single family detached unit, duplex or two family units, an apartment or a manufactured home. Case workers should assist participants in locating a unit that is best for that individual or family. Families can only lease a unit that meets rent reasonable for the unit size based on their family composition. For example, a single person would be given a rent reasonable for a one bedroom and if they found a 2 bedroom that was rent reasonable for a 1 bedroom then they could rent the 2 bedroom.

The applicant has 120 days from the time of assignment to use a slot. If the slot is not utilized the applicant or their service provider(s) may request one 30-day extension. Extension requests must be submitted in writing to the Sponsor. A verbal extension would be appropriate as long as it was written in the file accordingly. Extensions will be granted to applicants when it is shown that housing is actively being sought or for other good cause (i.e. hospitalization, family emergencies, etc.). If an extension is not requested or approved, then the slot may be re-assigned.

Household Composition - Unit Sizes and limitation:

§578.75 General operations.

.....

(c) *Suitable dwelling size.* The dwelling unit must have at least one bedroom or living/sleeping room for each two persons.

(1) Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.

HACC Policy

HACC will follow its own Subsidy Standards of two per room regardless of gender or age.

(2) If household composition changes during the term of assistance, recipients and subrecipients may relocate the household to a more appropriately sized unit. The household must still have access to appropriate supportive services.

.....

(i) *Retention of assistance after death, incarceration, or institutionalization for more than 90 days of qualifying member.* For permanent supportive housing projects surviving, members of any household who were living in a unit assisted under this part at the time of the qualifying member's death, long-term incarceration, or long-term institutionalization, have the right to rental assistance under this section until the expiration of the lease in effect at the time of the qualifying member's death, long-term incarceration, or long-term institutionalization.

Subsidy Size by Number of Units:

Under §578.75(c) *'Suitable dwelling size,* is specified as 'the dwelling unit must have at least one bedroom or living/sleeping room for each two persons.

The Housing Authority has determined the following occupancy standards as the number of bedrooms appropriate to the family size:

| Voucher Size | Persons in Household (Minimum – Maximum) |
|-----------------------------|---|
| SRO | 1 |
| Studio (400 Sq Ft or under) | 1 |
| Studio (401 Sq Ft or over) | 1-2 |
| 1 Bedroom | 1-3 |
| 2 Bedrooms | 2-5 |
| 3 Bedrooms | 4-7 |
| 4 Bedrooms | 6-9 |
| 5 Bedrooms | 8-11 |

HACC Standard: Landlord Forms/Leasing: Utilize the landlord and leasing forms that are part of the Landlord S+C Package. (effective July 2017)

- Participant Form with Contractor
- Request for Unit Approval Form
- Rental Assistance Payment Contract with Landlord and Contractor
- Lease Addendum
- Rent Reasonable Form
- Rental Calculation Excel Form (TRA & SRA)
- Housing Quality Inspection Form (HQS) TRA and SRA
- Copy of the Landlord Rental Agreement or Lease Agreement

Housing Quality Standards:

§578.75 (b) *Housing quality standards.* Housing leased with Continuum of Care program funds, or for which rental assistance payments are made with Continuum of Care program funds, must meet the applicable

housing quality standards (HQS) under 24 CFR 982.401 of this title, except that 24 CFR 982.401(j) applies only to housing occupied by program participants receiving tenant-based rental assistance. Housing Quality Standards (HQS) set acceptable conditions for interior living space, building exterior, heating and plumbing systems, and general health and safety. Before any rental assistance may be provided, the HACC, or another qualified entity acting on the HACC's behalf (but not the entity providing the housing), must physically inspect each S+C unit to ensure that it meets HQS.

- Sponsors that are SRA owned units cannot be inspected by the agency that owns the property. Contact your local housing authority to see if they would be able to provide the inspections.

Any housing quality problems must be corrected within 30 days from the start of the lease, and the sponsor must verify that all problems have been corrected. For first time inspection, the client should not sign lease until the inspection passes. The sponsor should have the initial inspection within 10 working days of finding the unit.

- During recertification of the unit, the landlord is required to repair any structural damages to the unit. Ultimately, the landlord is responsible for all damages to be repaired. If there are life hazardous issues, require the damage to be repaired within 24 hours.

Some HQS violations constitute a hazardous situation for the family. Families should not move into a new unit until the situation is remedied. If a participating family already occupies the unit they should make arrangements to leave the unit until the situation is remedied, particularly where there is any imminent danger to their health or safety.

If a family already occupies a unit and there is an endangering failure of HQS, the owner must make repairs within twenty-four hours.

Emergency situations include:

- Unsafe or inoperable heating systems
- Any “red-tagged” heating units.
- Significant water or sewer malfunctions
- Non-functioning water heater.
- Any “red-tagged” water-heating units.
- Water heater lacking pop-off valve and drip leg
- Detection of high levels of carbon monoxide.
- Gas leaks.
- Missing or malfunctioning smoke detectors.
- Lead-based paint if minors under 6 in household.
- Unsafe, exposed, or sparking wiring.
- Severely unsafe structural defects such as rotting floors.
- Citation of the unit for any health and safety violation, by the Health Department.
- Non-locking doors, windows, or other openings to the outside.

In any instance where a problem is found with a unit that has the potential of endangering the health or safety of the occupants, it is to be considered an HQS violation, whether or not it is specified in the regulations or Guidebook. With S+C Program, the HQS inspector does not have to be certified.

HACC Standard: Utilize the HQS Section 8 Forms or NSPIRE as dictated by the Admin Plan Chapter 8. Part of the S+C intake application.

HQS standards are detailed in 24 CFR 982.401 for the TRA, SRA, and PRA components. For the SRO component only, HQS standards are found in 24 CFR 882.803 (b)

Reasonable Rent:

Rents for units leased with S+C assistance must meet a "rent reasonableness" test. This section describes this standard for rents and how a reasonable rent is documented.

578.51(g) Rent reasonableness. HUD will only provide rental assistance for a unit if the rent is reasonable. The recipient or sub recipient must determine whether the rent charged for the unit receiving rental assistance is reasonable in relation to rents being charged for comparable unassisted units, taking into account the location, size, type, quality, amenities, Facilities, and management and maintenance of each unit. Reasonable rent must not exceed rents currently being charged by the same owner for comparable unassisted units.

HACC recommends that the rent reasonable be performed at the annual review. Leasing units at rents higher than the FMR may cause problems down the line since the original S+C grant amounts are calculated by multiplying the number of units to be assisted by the FMR, not the "reasonable rent. Administrative costs, damage payments and rent increases can only be covered if the total grant amount exceeds the actual costs of serving the number of people proposed to be served in the S+C application.

HACC Policy

Currently due to low vacancy and above average market area rents HACC is utilizing rent reasonable rents above FMR, but if grant funds head into shortfall it will convert to requiring a cap at FMR for all movers at notice given at Orientation when family is thinking of moving from their unit.

If in shortfall and household searching, voucher may be rescinded and follows Section 8 Administrative Plan rescission guidance and places family at top of wait list when funding becomes available.

Calculating Tenant Rent Payments:

To determine the rent payment for a S+C participant, program operators need to follow these steps:

1. Calculate 10 percent of monthly gross income.
2. Calculate 30 percent of monthly adjusted income.
3. Determine whether a welfare rent may apply, and, if so, determine the amount.
4. Determine which of these three rent amounts is the highest.
5. Set the participant's monthly rent contribution at this amount.

Rent must be calculated as provided in § 578.77. Rents collected from program participants are program income and may be used as provided under § 578.97. Amounts paid directly to landlords are not program income.

Income must be calculated in accordance with 24 CFR 5.609 and 24 CFR 5.611(a). A few things to keep in mind when making these calculations are:

- Types of income that must be included are employment income, social security, welfare assistance, unemployment benefits, and disability or worker's compensation.
- Some income may be eligible for exclusion. Examples include income earned by children under age 18, payment received for the care of foster children or adults, and reimbursement for the cost of medical expenses. These amounts are subtracted from household income before the rent contribution is calculated.
- The "disallowance of increase in annual income" provision in 24 CFR 5.617 does not apply to the S+C program.
- Welfare Rent

HUD considers FMR – Fair Market Rent with utilities included. When looking for units with utilities included within the FMR range would be best for the client and the sponsors (utilize rent reasonable also). The McKinney Vento Application awards are based upon the FMR for each unit. FMR sheets are sent out by HUD every October.

Income Recertification Requirements:

As required by statute, S+C program operators must reexamine participants' income at least annually and make any needed adjustments to the participants' rent contribution amount.

- The S+C participant may request an interim reexamination if there is a change in family composition (such as the birth of a child) or a decrease in household income.
- Participants whose income increases during the year do not have to have their rent increased until the next scheduled (annual) reexamination.

HACC Policy

Due to funding crisis HACC will conduct interim to increase rents with increases in income to try to help as many families as possible with the rental assistance awarded.

Once a client is accepted onto the program, Income verification for ALL family members such as:

1. Wage verification
 2. Social Security verification (SSI, SSDI) –will accept letter from Social Security Office or payment verification form
 3. Spend Down verification – will accept letter or payment verification from Social Security Office
 4. TANF verification –will accept letter from TANF Office
 5. Child Support verification –will accept a letter from the Child Support Office or verification from a check
 6. Food Stamp Verification – Will accept a letter from TANF Office or the V-Can system.
- Banking Verification – Need copy of last banking statement only if income exceeds \$5,000.
 - Medical Deductions – Contact pharmacy for documentation of total spent for the year
 - Child Care expenses – Will only accept letter from the agency providing service.

Occupancy Issues:

HACC recognizes there are times when it may be necessary for an individual to leave their current housing. At these times, the Sponsor will work toward a satisfactory resolution for both the tenant and the landlord in the hopes of keeping both the tenant and landlord engaged in the program.

Vacating unit: If a participant in the program vacates a unit for more than 30 days for any reason without giving a 30-day written notice to both the Sponsor and the landlord the assistance payment for the unit may continue for a maximum of 30-days from the end of the month in which the unit was vacated. If the tenant returns to their unit before the last day of the assistance payment Shelter Plus Care will continue to provide the subsidy. “Vacate” means to be absent from the unit (i.e. visiting family, vacationing, jail time, etc.). The term vacate does not include brief periods of inpatient care. **The assistance payments for individuals receiving inpatient care may continue for a period not to exceed 90 days per occurrence**

A unit will be considered abandoned if the Sponsor is unable to verify occupancy by a participant after a good faith effort has been made to locate the participant

Moving: In accordance with the lease or rental agreement, a participant may move from a current unit to another unit only if a 30-day written notice has been submitted by the first day of the month previous to the move to both the Sponsor and the landlord. If a participant leaves a unit at the conclusion of a 30-day notice and wishes to continue to receive assistance the participant must keep Sponsor informed of such plans. If the participant does not locate another unit within 30-days and does not maintain contact with the Sponsor, the tenant could be terminated from the program.

Landlord Request: If the tenant cooperates with the landlord’s request to leave, they may keep their assigned slot and continue the program. The case manager should assist the client to look for another unit.

Death: In the case of death, rent will be paid for the lesser of up to the date the tenant’s possessions are removed or for up to 14 days after a tenant has died. If the family has not removed the possessions they must pay market rent for any additional time needed. **§578.75 (i) Retention of assistance after death, incarceration, or institutionalization for more than 90 days of qualifying member.** For permanent supportive housing projects surviving, members of any household who were living in a unit assisted under this part at the time of the qualifying member's death, long-term incarceration, or long-term institutionalization, have the right to rental assistance under this section until the expiration of the lease in effect at the time of the qualifying member's death, long-term incarceration, or long-term institutionalization.

HACC Standard:

HACC recommends that S+C sponsors consider flexible supportive services and utilize The Housing First model that emphasizes:

- *Housing is a choice, not a placement. Housing is a person’s home, not a treatment program.*
- *Flexible supportive services that emphasis tenants needs and individual goals*
- *Tenants hold leases and full rights and obligations of tenancy*
- *Participation in services is voluntary and not a condition of tenancy*
- *Case managers work to build relationships with tenants, and support them in maintaining their housing.*

Program Agreement:

If the sponsor chooses to utilize a program agreement, we highly recommend that the program agreements are not too restrictive and that they do not place unrealistic rules on the clients. Instead, the program

agreement should follow the restrictions as stated on the lease that was signed by the client/tenant and the landlord.

§578.75(h) Supportive service agreement. Recipients and subrecipients may require the program participants to take part in supportive services that are not disability-related services provided through the project as a condition of continued participation in the program. Examples of disability-related services include, but are not limited to, mental health services, outpatient health services, and provision of medication, which are provided to a person with a disability to address a condition caused by the disability. Notwithstanding this provision, if the purpose of the project is to provide substance abuse treatment services, recipients and subrecipients may require program participants to take part in such services as a condition of continued participation in the program.

Note: Meeting with a case manager is not considered 'disability-related'.

The program agreement should give the requirements of the program and the possible reasons for terminations. The agreement should also state the policy and procedure for appeals. The agreement should be included in the participants file.

Annual Recertification of Participant:

Participants need to be re-certified for Shelter Plus Care **annually**. The re-certification process is similar when they first applied however there is no new application. Below are items that are required each new year. The annual re-certifications should follow the dates on the lease.

- Require a housing inspection
- Require an income verification
- Require a copy of the newly signed lease with landlord
- Require a New Landlord Packet Forms that coincide with the lease

Waiting List:

The Clackamas County Continuum of Care Coordinated Housing Access will maintain the wait lists for this program and families will be referred by the sponsor agency off the top of this wait list. Using the centralized or coordinated assessment system as required under 578.23(c) (9)

Termination from the Program:

578.91 Termination of assistance to program participants.

(a) *Termination of assistance.* The recipient or subrecipient may terminate assistance to a program participant who violates program requirements or conditions of occupancy. Termination under this section does not bar the recipient or subrecipient from providing further assistance at a later date to the same individual or family.

(b) *Due process.* In terminating assistance to a program participant, the recipient or subrecipient must provide a formal process that recognizes the rights of individuals receiving assistance under the due process of law. This process, at a minimum, must consist of:

- (1) Providing the program participant with a written copy of the program rules and the termination process before the participant begins to receive assistance;
- (2) Written notice to the program participant containing a clear statement of the reasons for termination;
- (3) A review of the decision, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and
- (4) Prompt written notice of the final decision to the program participant.

(c) *Hard-to-house populations.* Recipients and subrecipients that are providing permanent supportive housing for hard-to-house populations of homeless persons must exercise judgment and examine all extenuating circumstances in determining when violations are serious enough to warrant termination so that a program participant's assistance is terminated only in the most severe cases. Note (c) on hard-to-house populations.

Participants can be terminated from Shelter Plus Care for a number of reasons. However, termination is always the last result. Before a recommendation of termination is approved, we must first do all that we are capable of doing to resolve all situations. Recipients and sub recipients that are providing permanent supportive housing for hard-to-house populations of homeless persons must exercise judgment and examine all extenuating circumstances in determining when violations are serious enough to warrant termination so that a program participant's assistance is terminated only in the most severe cases. Rental assistance *may* be terminated if a participant violates conditions of lease. Program regulations recommend, however, that HACCs exercise judgment and take into consideration extenuating circumstances so that participants are only terminated for the most serious rule violations.

Listed below may be actions for termination:

- Eviction from the residence due to violation of the landlord/tenant agreement by the participant or those family members living with the participant.
- If the participant moves to another HUD funded project or moves out of the unit without notice.
- Incarcerated for more than 30 days
- Hospitalized for either medical or psychiatric reasons for more than 90 days
- Voluntarily termination
- Submission of incorrect information
- Non-compliance with the financial portion of the rental assistance
- Violation of the Occupancy Agreement/Program agreement if different from the lease.
- Subleasing to other persons
- Illegal activity

Termination Requirements:

If termination is necessary, principles of due process must be followed. At a minimum, this process must include:

- Written notice to the participant containing a clear statement of the reason for the termination and at least 30 days' notice and a date to when they can appeal the decision.
- A review of the decision, during which the participant has the opportunity to present written or verbal objections before someone other than the person (or a subordinate of the person) who made or approved the termination decision; and
- Prompt written notice of the final decision to the participant.

The S+C Program permits HACCs to resume assistance to persons or families whose assistance was previously terminated. If this occurs, there is no need to document disability again. Homeless documentation will be required to be attained again.

Appeal Process:

The Project Sponsor should determine a written policy and procedures regarding appeal process for those who are denied or terminated from the S+C Program. These policies and procedures should be provided to all participants at the beginning of the program. This could be part of the Occupancy/Program Agreement and should be part of their file – signed and dated by client and staff.

Shelter Plus Care Portability:

If an individual elects to move from their current town, the Sponsor must ensure the new location is part of the grant jurisdiction. The rental assistance subsidy is portable within a jurisdiction as defined by the grant application.

HACC Policy

In general this program limits the family to search only in Clackamas County. If a client for reasonable accommodation need must look outside the Clackamas County jurisdiction, they must provide verification from a medical provider of need and will be placed as a priority for a regular HCV to be “ported” as a regular voucher.

For all other purposes, if a family for domestic violence needs to look outside the Clackamas County jurisdiction, they must complete HUD DV forms will be place as a priority for a regular HCV to be “ported” as a regular voucher.

Section 4: Supportive Services Match

This section addresses the role of supportive services within the S+C program, including service provision requirements, the types of services likely to be appropriate to the target S+C participants, and how to best coordinate with service providers. It also discusses the supportive service match requirement and how to document the match appropriately. Full details on the S+C regulations governing supportive services and match requirements can be found in 24 CFR 578.53. **§578.53 describes supportive services that can qualify as match; §578.73 describes how to compute and document match.**

As the name of the program indicates, a key goal of the Shelter Plus Care program is to connect housing and services. Appropriate supportive services are essential to helping individuals and families remain in a stable housing environment. An MOU is required for services match.

Supportive services are the key to maintaining Shelter Plus Care Participants in housing. Sponsors must be able to provide HACC with reasonable assurances that supportive services are being made available to participants for the entire term of the rental assistance. Under this program, these services must be paid for with sources of funding other than the S+C grant. Each Sponsor must have the skills and experience working with homeless and disabled clients to provide the support necessary to keep clients housed. Keeping participants housed is essential to a successful program, which is why we require all Sponsors to offer intensive case managements, ongoing supportive services and assist in locating appropriate housing.

If Sponsors partner with a mental health center or similar agency to provide social services, the Sponsor should enter into a Memorandum of Understanding with the partner clearly outlining responsibilities.

For further technical assistance, HACC recommends Sponsors refer to “Putting the Support in Supportive Housing” by the Corporation for Supportive Housing. A free pdf file of this publication is available at www.csh.org.

Providing Appropriate Services:

Appropriate services should be offered to S+C participants, and should be tailored to meet the needs of each individual participant.

Appropriate Eligible Services:

In general, and as the definition of "supportive service" in the S+C regulation (section only services described in **§578.53** qualify for match) indicates, a supportive service qualifies as a matching resource when it addresses the "special needs" of the individual.

Examples of supportive services that might be provided by you or one of your sponsors include, but are not limited to:

- Health care
- Mental health treatment
- Alcohol and other substance abuse services
- Childcare services
- Case management
- Counseling
- Education and/or job training
- Other services essential for achieving and maintaining independent living, such as courses on household budgeting

Not eligible for match: inpatient acute hospital care.

Case Management – Service Provision Requirements:

The statute does not exclude any source of funding for the purposes of meeting the supportive services match requirement, except that S+C grant funds cannot be used for supportive services in any event. The sources may be Federal, State, local, or private. Of course, supportive services must be an eligible use of the source program's funds. For example, the HOME Program cannot be used to meet the S+C match requirement since supportive services are not an allowable use of HOME funds. The services may be created specifically for the S+C program or already be in operation.

Supportive service may be provided by a variety of entities including S+C sponsors, the HACC, or social service agencies in the community. The services may be offered by paid staff or by volunteers. Service plans need to be developed and tailored to each participant's needs, both at program entry and over time. You must perform ongoing assessments of participants' service needs annually and make adjustments to service plans as needed. (See 24 CFR 578.53 (a) (2).) This is essential so that tenants are not made to receive specific services for which there may no longer be a need.

In order to qualify as match, the supportive service must:

- Address the special needs of the population being served.
- Be appropriate or assist participants in obtaining appropriate services.

Over time, some tenants may require few if any supportive services. When this happens, you may wish to consider offering these tenants the option of receiving Section 8 vouchers, if available in your community, thus freeing up rental assistance dollars in your S+C Program for new tenants.

Outreach:

S+C HACCs must make an ongoing effort to ensure that eligible hard-to-reach persons are identified and served by the program. Outreach activities to identify eligible homeless people are considered a supportive service, and the value of outreach activities that occur after the execution of the grant agreement counts toward meeting the match requirement.

Evaluation of Client Satisfaction:

A program evaluation should be completed on a quarterly basis. This is a measure of consumer compliance with the program, satisfaction ratios, and improvement suggestions. A 10% consumer base sample is required from the population.

Documentation Responsibilities – Match, APR, Closeout

Given the importance of the match requirement, it is especially critical that service providers understand their responsibilities in tracking and documenting services offered to S+C participants. HACCs and their partners need to develop procedures and reporting formats to collect and compile this information. Because the service needs of S+C participants are high, it is likely that the value of supportive services provided to them far exceeds the value of the S+C rental assistance. However, in order to get credit for having met the statutory match requirement, these supportive services must be adequately documented. This section provides guidance and suggestions for documenting the match.

HACC has a Supportive Housing Services (SHS) funded grant for services to be provided and the cost of this is used as match.

What Counts as Match?

§ 578.73 Matching requirements.

(a) In general. The recipient or sub recipient must match all grant funds, except for leasing funds, with no less than 25 percent of funds or in-kind contributions from other sources. For Continuum of Care geographic areas in which there is more than one grant agreement, the 25 percent match must be provided on a grant-by-grant basis. Recipients that are UFAs or are the sole recipient for their Continuum, may provide match on a Continuum-wide basis. Cash match must be used for the costs of activities that are eligible under subpart D of this part, except that HPCs may use such match for the costs of activities that are eligible under § 578.71.

(b) Cash sources. A recipient or sub recipient may use funds from any source, including any other federal sources (excluding Continuum of Care program funds), as well as State, local, and private sources, provided that funds from the source are not statutorily prohibited to be used as a match. The recipient must ensure that any funds used to satisfy the matching requirements of this section are eligible under the laws governing the funds in order to be used as matching funds for a grant awarded under this program.

(c) In-kind contributions.

(1) The recipient or sub recipient may use the value of any real property, equipment, goods, or services contributed to the project as match, provided that if the recipient or sub recipient had to pay for them with grant funds, the costs would have been eligible under Subpart D, or, in the case of HPCs, eligible under § 578.71.

(2) The requirements of 24 CFR 84.23 and 85.24 apply.

(3) Before grant execution, services to be provided by a third party must be documented by a memorandum of understanding (MOU) between the recipient or sub recipient and the third party that will provide the services. Services provided by individuals must be valued at rates consistent with those ordinarily paid for similar work in the recipient's or sub recipient's organization. If the recipient or sub recipient does not have employees performing similar work, the rates must be consistent with those ordinarily paid by other employers for similar work in the same labor market.

(i) The MOU must establish the unconditional commitment, except for selection to receive a grant, by the third party to provide the services, the specific service to be provided, the profession of the persons providing the service, and the hourly cost of the service to be provided.

(ii) During the term of the grant, the recipient or sub recipient must keep and make available, for inspection, records documenting the service hours provided.

The following items count toward the supportive service match requirement:

- Salaries paid to HACC staff to provide supportive services to participants;
- The value of supportive services provided to participants by other organizations or by professionals volunteering their professional services;
- Supportive services provided by other volunteers (at the rate of \$10 per hour);
- The prorated value of any lease on a building used for supportive services to program participants;
- The cost of outreach activities after the grant agreement has been signed.

Requirements for Calculating Match:

HACC must match the total value of S+C rental assistance provided through the grant with no less than 25% equal value of supportive services. Grant funds spent on eligible administrative costs are not subject to the match requirement.

The match is an overall grant wide requirement, not year-by-year, component-by-component or participant-by-participant. Since HUD assumes that the provision of supportive services will vary according to the needs

of the participants, any given participant is not required to receive the same amount of services as rental assistance. As a result, the value of the services provided may be higher or lower than the value of rental assistance for any given year.

Keep in mind that the match must be reported annually in the Annual Progress Report (APR); therefore, the HACC should request information on supportive services from providers at regular intervals at least yearly and preferably more often - quarterly. Good management practices would dictate that a standard reporting format be developed and made available to each service provider **before** they begin providing services.

Utilize the Quarterly Match Form.

A sample format and instructions will help support service providers to provide accurate documentation for the match:

1. Pull the clinical records on all S+C clients.
2. Check the client record against the activities listed on the Supportive Services match tracking form (see example in [Appendix F.](#))
3. Check YES if the service or referral for each service took place.
4. In HOURS column, indicate how much time was spent on each service or referral.
5. In RATE column, indicate hourly rate for staff providing service.
6. In MATCH \$ column, calculate the dollar amount of service or referral provided.
7. Sign and date the verification at the bottom of the page. This form remains part of the Federal records.
8. Return completed form to HACC.

Instructions should accompany the reporting format that includes a listing of what qualifies as match under the program. However, it is the responsibility of the HACC to check that the match claimed is eligible and verify the match dollars claimed.

Determining the amount spent on matching services might look like this:

| | |
|---|-------------------|
| Example: The prorated salary paid to a case manager who works with eligible S+C participants may be counted as match. If the service provider, who earns \$30,000 a year, spends 50% of her time providing eligible services to S+C participants, then half of her salary and benefits may be counted as match. | |
| 50% of case manager salary (at \$30,000 a year) | = \$15,000 |
| + 50% of benefits paid by employer (estimated at 30% of salary or \$9,000 a year) | = \$4,500 |
| = \$19,500 that may be counted as supportive service match under S+C | |

The following items count as match:

- Salaries paid to HACC’s staff to provide supportive services to participants;
- The value of supportive services provided to participants by other organizations or by professional volunteering their professional services, except for donated professional services, which may be counted as customary charge for the services.
- The value of time and supportive services provided by other volunteers (at the rate of \$10 per hour);

- The prorated value of any lease on a building used for supportive services, for program participants.
- The cost of outreach activities

The supportive services may be newly created for the program or already in operation, and may be provided or funded by other Federal State, local, or private programs. Only services that are provided after execution of the contract may be counted towards the match.

HACC Standard: Documentation of the Match: Utilize Quarterly Match form to be submitted to the HACC (HACC) quarterly based upon the cycle year of each particular program.

A blank match form is available upon request from HACC.

Section 5: Financial Management – Claims, Cost Savings, LOCCS:

A LOCCS status of funds report is similar to a bank statement. It is a monthly report listing all of a HACC's sponsors by grant and S+C component, including funds spent-to-date and remaining balances. The authorized grant amount is listed in the first column under Authorized. The second and third columns show the amount spent-to-date under Disbursed and Disbursement in Process. The last column shows the remaining balance of funds available under the grant.

HACCs should carefully monitor these reports, paying particular attention to the balance and the end date of the grant to ensure that the program is on track to spend its funds within the grant term.

Claims:

HACC Standard: The claim forms needs to specify type of payment being requested (security deposit, damages or vacancy loss) by a case worker and submitted and approved by the Housing Services Manager.

In addition to rent and utilities, "rental assistance" includes up to one month's rent each for a security deposit and damage payment. There is a small amount (up to 8 percent of the grant) of administering the housing assistance which is called cost savings.

Administration Activity/Cost Savings:

HACCs may use up to 10% of the S+C grant for certain administrative costs associated with the program. This does not include staff and overhead costs directly related to carrying out activities eligible under § 578.43 through § 578.57, because those costs are eligible as part of those activities.

Eligible administrative costs (578.59)

Include:

(1) General management, oversight, and coordination. Costs of overall program management, coordination, monitoring, and evaluation. These costs include, but are not limited to, necessary expenditures for the following:

(i) Salaries, wages, and related costs of the recipient's staff, the staff of sub recipients, or other staff engaged in program administration. In charging costs to this category, the recipient may include the entire salary, wages, and related costs allocable to the program of each person whose primary responsibilities with regard to the program involve program administration assignments, or the pro rata share of the salary, wages, and related costs of each person whose job includes any program administration assignments. The recipient may

use only one of these methods for each fiscal year grant. Program administration assignments include the following:

- (A) Preparing program budgets and schedules, and amendments to those budgets and schedules;
 - (B) Developing systems for assuring compliance with program requirements;
 - (C) Developing agreements with sub recipients and contractors to carry out program activities;
 - (D) Monitoring program activities for progress and compliance with program requirements;
 - (E) Preparing reports and other documents directly related to the program for submission to HUD;
 - (F) Coordinating the resolution of audit and monitoring findings;
 - (G) Evaluating program results against stated objectives; and
 - (H) Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described in paragraph (a)(1)(i)(A) through (G) of this section.
- (ii) Travel costs incurred for monitoring of sub recipients;
 - (iii) Administrative services performed under third-party contracts or agreements, including general legal services, accounting services, and audit services; and
 - (iv) Other costs for goods and services required for administration of the program, including rental or purchase of equipment, insurance, utilities, office supplies, and rental and maintenance (but not purchase) of office space.
- (2) Training on Continuum of Care requirements. Costs of providing training on Continuum of Care requirements and attending HUD-sponsored Continuum of Care trainings.
 - (3) Environmental review. Costs of carrying out the environmental review responsibilities under § 578.31.

§ 578.61 Relocation costs.

- (a) In general. Relocation costs under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 are eligible.
- (b) Eligible relocation costs. Eligible costs are costs to provide relocation payments and other assistance to persons displaced by a project assisted with grant funds in accordance with § 578.83.

§ 578.63 Indirect costs.

- (a) In general. Continuum of Care funds may be used to pay indirect costs in accordance with OMB Circulars A-87 or A-122, as applicable.
- (b) Allocation. Indirect costs may be allocated to each eligible activity as provided in subpart D, so long as that allocation is consistent with an indirect cost rate proposal developed in accordance with OMB Circulars A-87 or A-122, as applicable.
- (c) Expenditure limits. The indirect costs charged to an activity subject to an expenditure limit under §§ 578.39, 578.41, and 578.59 must be added to the direct costs charged for that activity when determining the total costs subject to the expenditure limits.

The funds available for administrative costs are determined by statute; the amount of the S+C grant award is based on:

(Number of units to be assisted) x (HUD's Fair Market Rent in effect at the time the application is approved for the unit sizes the HACC expects to lease) x (the number of months of rental assistance to be provided)

In most cases, the actual costs of rental assistance are lower than the amount used to calculate the grant. This happens for several reasons. First, most participants contribute something to their rent, so they do not need the full FMR subsidy. In addition, in many communities sponsors are able to find units to lease that are less than the local FMRs.

As a result, HACCs generally have excess funds to help cover the costs of administering the rental assistance. However, if making rental subsidy payments for the number of Shelter Plus Care participants specified in the grant agreement leaves less than 8 percent of the grant remaining, then the amount set aside out of the S+C grant for administrative costs cannot exceed that lower percentage. The HACC must pay for any administrative costs in excess of this cap with funds from some other source.

Ineligible Administrative Costs (578.59)

HUD recognizes that there are other administrative costs necessary to running a local Shelter Plus Care project. But, by statute, administrative costs other than those described above cannot be covered by S+C grant funds.

Section 6: Reporting Requirements: Completing the Annual Progress Report (APR), HMIS & Closeout Form, Conflict of Interest

Purpose of the APR:

HUD uses the APR to review the progress of your S+C project annually. Performance of your project is tracked using the following three outcomes:

- Increased residential stability;
- Increased skill level and/or income; and
- Greater self-sufficiency.

HACC can also use the APR as a tool for evaluating performance and setting future program goals.

Reporting Requirements:

HACCs must submit an Annual Progress Report (APR) for Competitive Homeless Assistance Programs within 90 days of the end of each operating year. It is important to complete the report accurately and submit it on time.

Tips for Completing the APR:

The APR documents project enrollments and departures, participants' demographic characteristics, and outcomes including participants' length of stay in housing, changes in skills and income, and changes in levels of self-sufficiency.

As discussed in Section 4, HACCs must also document the S+C match by reporting the value of supportive services received by S+C participants during the year. You are advised to develop a standard form for supportive service providers to use to report services received by S+C participants (the agency can utilize the Quarterly Match Form) This information must be collected and summarized at least annually for inclusion in the APR.

Collecting and compiling the information for the APR requires close cooperation between the HACC and local project sponsors. HACC records client data in HMIS or HAB (databases).

HACC Standard Program Reporting: An Annual Progress Report (APR) must be completed by the Project Sponsor and submitted to HACC (60) sixty days after the end of the operating year. The APR must be printed off from HMIS system. If you need assistance with the HMIS System, contact the HMIS staff.

The HMIS APR is reviewed by HACC prior to them sending it to HUD Field Office. It is imperative this form be complete and exact. If there are any errors, HACC will contact you to correct them prior to sending to HUD.

- Verification of supportive service match
- Accomplished percentages of the three performance goals and verification of admissions and discharges of the program during the year

The APR categories should be reviewed throughout the year in order to monitor your program's performance.

The APR will reflect if participants are being discharged with positive outcomes like increase in income, increased mainstream resources, employment if able and being discharged to other permanent housing – example Section 8 or other subsidized housing. If the APR reflects that persons are leaving with negative outcomes, example being discharged to an emergency shelter or transitional housing, and leaving with less resources, your agency should look at your strategies and/or rules of how to affectively modify these types of outcomes.

When determining your program goals, keep in mind the difference between input and outcomes. Program objectives should be quantified performance measurements of outcomes in the lives of the participants, not measurements of inputs.

For example, “Ninety percent of participants eligible for food stamps will receive food stamps within two months of entering the program” is an outcome. This is a good example of a quantified performance.

“Ninety percent of participants will apply for food stamps” is an input. This is a poor example.

HMIS:

HUD requires all Sponsors to enter participant data into Housing Management and Information System (HMIS). Sponsors should contact HACC HMIS staff for technical assistance. The Sponsor is responsible for entering correct information into HMIS and obtaining necessary consents.

HACC utilizes the HMIS Intake Form and the Discharge form as part of the S+C application and file. HACC requires that S+C Sponsors utilize HMIS system to pull their annual progress report (APR).

Closeout Forms:

After the grant year has ended, a closeout form will need to be completed by the Project Sponsor and sent to HACC. This is a purely financial form and will need to be completed at least 60 days after the year has been completed and after all claims have been reimbursed for that year. This form will ensure that HACC numbers and the agencies numbers match. If there is a discrepancy, HACC will contact the Project Sponsor. A blank closeout form is available upon request from HACC.

Section 7 Conflicts of Interest:

§ 578.95 Conflicts of interest.

(a) Procurement. For the procurement of property (goods, supplies, or equipment) and services, the recipient and its sub recipients must comply with the codes of conduct and conflict-of-interest requirements under 24 CFR 85.36 (for governments) and 2 CFR 200 (for private nonprofit organizations).

(b) Continuum of Care board members. No Continuum of Care board member may participate in or influence discussions or resulting decisions concerning the award of a grant or other financial benefits to the organization that the member represents.

(c) Organizational conflict. An organizational conflict of interest arises when, because of activities or relationships with other persons or organizations, the recipient or sub recipient is unable or potentially unable to render impartial assistance in the provision of any type or amount of assistance under this part, or when a covered 106 person's, as in paragraph (d)(1) of this section, objectivity in performing work with respect to any activity assisted under this part is or might be otherwise impaired. Such an organizational conflict would arise when a board member of an applicant participates in decision of the applicant concerning the award of a grant, or provision of other financial benefits, to the organization that such member represents. It would also arise when an employee of a recipient or sub recipient participates in making rent reasonableness determinations under § 578.49(b) (2) and § 578.51(g) and housing quality inspections of property under § 578.75(b) that the recipient, sub recipient, or related entity owns.

(d) Other conflicts. For all other transactions and activities, the following restrictions apply:

(1) No covered person, meaning a person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient or its sub recipients and who exercises or has exercised any functions or responsibilities with respect to activities assisted under this part, or who is in a position to participate in a decision-making process or gain inside information with regard to activities assisted under this part, may obtain a financial interest or benefit from an assisted activity, have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity, or have a financial interest in the proceeds derived from an assisted activity, either for him or herself or for those with whom he or she has immediate family or business ties, during his or her tenure or during the one-year period following his or her tenure.

(2) Exceptions. Upon the written request of the recipient, HUD may grant an exception to the provisions of this section on a case-by-case basis, taking into account the cumulative effects of the criteria in paragraph (d)(2)(ii) of this section, provided that the recipient has satisfactorily met the threshold requirements of paragraph (d)(2)(ii) of this section.

(i) Threshold requirements. HUD will consider an exception only after the recipient has provided the following documentation:

(A) Disclosure of the nature of the conflict, accompanied by a written assurance, if the recipient is a government, that there has been public disclosure of the conflict and a description of how the public disclosure was made; and if the recipient is a private nonprofit organization, that the conflict has been disclosed in accordance with their written code of conduct or other conflict-of-interest policy; and

(B) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law, or if the sub recipient is a private nonprofit organization, the exception would not violate the organization's internal policies.

(ii) Factors to be considered for exceptions. In determining whether to grant a requested exception after the recipient has satisfactorily met the threshold requirements under paragraph (c) (3) (i) of this section, HUD must conclude that the exception will serve to further the purposes of the Continuum of
107

Care program and the effective and efficient administration of the recipient's or sub recipient's project, taking into account the cumulative effect of the following factors, as applicable:

- (A) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
- (B) Whether an opportunity was provided for open competitive bidding or negotiation;
- (C) Whether the affected person has withdrawn from his or her functions, responsibilities, or the decision-making process with respect to the specific activity in question;
- (D) Whether the interest or benefit was present before the affected person was in the position described in paragraph (c) (1) of this section;
- (E) Whether undue hardship will result to the recipient, the sub recipient, or the person affected, when weighed against the public interest served by avoiding the prohibited conflict;
- (F) Whether the person affected is a member of a group or class of persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class; and
- (G) Any other relevant considerations.

SHELTER PLUS CARE CHECK LIST
FOR NEW AND YEARLY RE-CERTIFICATIONS

NEED THE FOLLOWING FOR FILE

- _____ Homeless Documentation – 3rd party verification
- _____ Disability Form signed by medical professional
- _____ Program Agreement
- _____ Copy of the Landlord Lease or Rental Agreement
- _____ Permission to Release Information Form
- _____ Zero Income if Applicable
- _____ Income information form along with copies of SSDI, SSI, Work, child support, etc.
- _____ Housing Quality Inspection Passed – copy included – (recert requirement)
- _____ Rent Reasonable list of comparables/form (recert requirement)
- _____ Income Calculation Excel Sheet Completed (recert requirement)
- _____ Signed copy of new lease (recert requirement)
- _____ Signed Lease Addendum (recert requirement)
- _____ Signed RAP Form with Landlord (recert requirement)
- _____ Signed RAP Form with Participant/Client (recert requirement)
- _____ Copy of HMIS Intake and Discharge
- _____ Other Case Management Notes/Letters

GLOSSARY

A. ACRONYMS USED IN THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

| | |
|---------------|---|
| 504 | Reasonable Accommodation |
| AAF | Annual adjustment factor (published by HUD in the <i>Federal Register</i> and used to compute annual rent adjustments) |
| ACC | Annual contributions contract |
| ADA | Americans with Disabilities Act of 1990 |
| AIDS | Acquired immune deficiency syndrome |
| BR | Bedroom |
| CDBG | Community Development Block Grant (Program) |
| CFR | Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”) |
| COC | Continuum of Care |
| CPI | Consumer price index (published monthly by the Department of Labor as an inflation indicator) |
| EHV | Emergency Housing Voucher (2N) |
| EID | Earned income disallowance |
| EIV | Enterprise Income Verification |
| FDIC | Federal Deposit Insurance Corporation |
| FHA | Federal Housing Administration (HUD Office of Housing) |
| FHEO | Fair Housing and Equal Opportunity (HUD Office of) |
| 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 |
| FYI | Foster Youth to Independence (2020-28 2N) |
| FYIC | FYI Competitive Award |
| FYITPV | FYI (2019-20 Initial Award Vouchers 2N) |
| FUP | Family Unification Program |
| GAO | Government Accountability Office |
| GR | Gross rent |

| | |
|-----------------|---|
| HA | Housing authority or housing agency |
| HACC | Housing Authority of Clackamas County |
| HAP | Housing assistance payment |
| HCV | Housing choice voucher |
| HQS | Housing quality standards |
| HUD | Department of Housing and Urban Development |
| HUDCLIPS | HUD Client Information and Policy System |
| IPA | Independent public accountant |
| IRA | Individual retirement account |
| IRS | Internal Revenue Service |
| JTPA | Job Training Partnership Act |
| LBP | Lead-based paint |
| LEP | Limited English proficiency |
| MS5 | Mainstream Voucher – 5 year (Code 2N) |
| MSA | Metropolitan statistical area (established by the U.S. Census Bureau) |
| MTCS | Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system) |
| MTW | Moving to Work |
| NED | Non-Elderly Disabled Voucher (Code 2N) |
| NOFA | Notice of funding availability |
| OGC | HUD's Office of General Counsel |
| OIG | HUD's Office of Inspector General |
| OMB | Office of Management and Budget |
| PASS | Plan to Achieve Self-Support |
| PBV | Project Based Voucher |
| PHA | Public housing agency |
| PIC | PIH Information Center |
| PIH | (HUD Office of) Public and Indian Housing |
| PS | Payment standard |
| QC | Quality control |
| RAD | Rental Assistance Demonstration |
| RADRP | RAD Rental Assistance Payment (Code 2N) |
| RAPS | Reasonable Accommodation Payment Standard |

| | |
|-----------------|---|
| REAC | (HUD) Real Estate Assessment Center |
| RFP | Request for proposals |
| RFTA/RTA | Request for tenancy approval |
| RIGI | Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level) |
| RLRA | Regional Long Term Rental Assistance Program |
| SEMAP | Section 8 Management Assessment Program |
| SPC | Shelter Plus Care aka S+C |
| SRO | Single room occupancy |
| SSA | Social Security Administration |
| SSI | Supplemental Security Income |
| SWICA | State wage information collection agency |

| | |
|-------------|--|
| | TANF Temporary assistance for needy families |
| TBV | Tenant Based Voucher |
| TCU | Tax Credit Unit or Low Income Housing Tax Credit Unit (2N) |
| TPV | Tenant protection vouchers |
| TR | Tenant rent |
| TTP | Total tenant payment |
| UA | Utility allowance |
| UFAS | Uniform Federal Accessibility Standards |
| UIV | Upfront income verification |
| UML | Unit Months Leased |
| URP | Utility reimbursement payment |
| VASH | Veteran Administration Supportive Housing (2N) |
| VAWA | Violence Against Women Reauthorization Act of 2013 |
| VMS | Voucher Management System |

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 persons with disabilities.

Adjusted income. Annual income, less allowable HUD deductions and allowances.

Administrative fee. Fee paid by HUD to the PHA for administration of the program. See §982.152.

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.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual

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. Happening once a year.

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 24 CFR 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.

Biennial. Happening every two years.

Bifurcate. With respect to a public housing or 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.

Budget authority. An amount authorized and appropriated by the Congress for payment to PHAs 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.

Cohead. An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

Common space. In shared housing, the space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of databases 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 24 CFR 982.606–609.

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 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 24 CFR 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.

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

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, cohead, spouse, or sole member is a person with disabilities; 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*.

Disallowance. Exclusion from annual income.

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 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.

Domicile. The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. 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.

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 24 CFR 5.603(c).

Elderly family. A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; 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 A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR. See also *family*.

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 as evidence of citizenship or eligible immigration status. See 24 CFR 5.508(b).

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher. Area median income is 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. See 24 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. 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, regardless of actual or perceived sexual orientation, gender identity, or marital status, 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 24 CFR 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. A 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). See 24 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.

Gender identity. Actual or perceived gender-related characteristics.

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 24 CFR 982.610–614.)

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

HAP contract. The housing assistance payments 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.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

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). See *public housing agency*.

Housing quality standards (HQS). The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The U.S. Department of Housing and Urban Development.

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is 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. See *person with disabilities*.

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.

Institution of higher education. An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

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.

Living/sleeping room. A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space. A bedroom or living/sleeping room must have at least one window and two electrical outlets in proper operating condition. See HCV GB p. 10-6 and 24 CFR 982.401.

Local preference. A preference used by the PHA to select among applicant families.

Low-income family. A family whose income does not exceed 80 percent 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 percent 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 24 CFR 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 24 CFR 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 percent of annual income.

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.

Overcrowded. A unit that does not meet the following HQS space standards: (1) Provide adequate space and security for the family; and (2) Have at least one bedroom or living/sleeping room for each two persons.

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).

Person with disabilities. *For the purposes of program eligibility.* A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

Portability. Renting a dwelling unit with a 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.

Previously unemployed. With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 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.

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 HCV 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.

Qualified family (under the earned income disallowance). A family participating in an applicable assisted housing program or receiving HCV assistance:

- 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;
- 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
- 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.

Qualified census tract. With regard to certain tax credit units, 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.

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.

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

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 the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their 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 (See *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 voucher 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. The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 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.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

Sexual orientation. Homosexuality, heterosexuality or bisexuality.

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 24 CFR 982.615–982.618.)

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 24 CFR 982.602–982.605.)

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. The term on the family's voucher stops from the date the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied. This practice is also called *tolling*.

Tax credit rent. With regard to certain tax credit units, 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).

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.

Utilities. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

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.

Very low-income family. A low-income family whose annual income does not exceed 50 percent 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 percent 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.

Veteran. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

Violence Against Women Reauthorization Act (VAWA) of 2013. Prohibits denying admission to the program to an otherwise qualified applicant or terminating assistance on the basis that the applicant or program participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

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. A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

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.