

# HCV ADMINISTRATIVE PLAN

EFFECTIVE 10/1/2024

*Housing Authority of the City of Long Beach*

# HCV Administrative Plan

[HOUSING AUTHORITY OF THE CITY OF LONG BEACH]

Approved by the HA Board of Commissioners:

Submitted to HUD:

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### **Introduction**

#### **ABOUT THE REFERENCES CITED IN THE MODEL ADMINISTRATIVE PLAN**

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## **Introduction**

### **ABOUT REFERENCES CITED IN THE ADMINISTRATIVE PLAN**

#### **AUTHORITIES IN THE ADMINISTRATIVE PLAN**

Authority for Public Housing Agency (PHA) policies is derived from many sources. Primary among these sources are 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. In the absence of legal requirements or HUD guidance, industry practice may lead to PHA policy.

##### **U.S. Department of Housing and Urban Development (HUD)**

HUD provides the primary source of PHA policy through federal regulations, HUD Notices and handbooks. Compliance with federal regulations, current HUD Notices and HUD handbooks is mandatory.

HUD provides nonmandatory guidance to PHAs through HUD published guidebooks. Expired HUD Notices and handbooks also provide guidance for PHA policy. Following 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.”

Content contained on the HUD website can provide further clarification of HUD policies. For example, FAQs on HUD’s website can provide direction on the application of federal regulations to a specific pattern.

##### **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 state law.

##### **Industry Practice**

Where no law or HUD authority exists on a particular subject, industry practice may support PHA policy. An industry practice is a way of doing things that is followed by most housing authorities.

#### **RESOURCES CITED IN THE ADMINISTRATIVE PLAN**

The Administrative Plan cites several documents. Where a document or resource is cited frequently, it may be abbreviated. The following is a key to abbreviations and a list of PHA resources used for various resources that are frequently cited in the Administrative Plan.

## 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 model policy cites both versions of the guidebook. Therefore, where the HCV Guidebook is cited in the model 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).

## Abbreviations

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

Abbreviation	Document
CFR	Code of Federal Regulations
HCV GB	Housing Choice Voucher Program Guidebook (7420.10G), April 2001.
New HCV GB	Housing Choice Voucher Program Guidebook (7420.10G), Various dates of release
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

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 <a href="https://www.ecfr.gov/">https://www.ecfr.gov/</a>
Earned Income Disregard FAQ <a href="https://www.hud.gov/program_offices/public_indian_housing/phr/about/ao_faq_eid">https://www.hud.gov/program_offices/public_indian_housing/phr/about/ao_faq_eid</a>

Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Final Rule <a href="http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf">http://edocket.access.gpo.gov/2008/pdf/E8-19435.pdf</a>
Enterprise Income Verification (EIV) System, Security Procedures for Upfront Income Verification data <a href="https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF">https://www.hud.gov/sites/documents/EIVSECGUIDEPHA.PDF</a>
Executive Order 11063 <a href="https://www.archives.gov/federal-register/codification/executive-order/11063.html">https://www.archives.gov/federal-register/codification/executive-order/11063.html</a>
Federal Register <a href="https://www.federalregister.gov/">https://www.federalregister.gov/</a>
Housing Choice Voucher Program Guidebook (7420.10G), Updated Chapters <a href="https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook">https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook</a>
HUD-50058 Instruction Booklet <a href="https://www.hud.gov/sites/documents/FORM50058INSTRUCTBOOKLET.PDF">https://www.hud.gov/sites/documents/FORM50058INSTRUCTBOOKLET.PDF</a>
Joint Statement of the Department of Housing and Urban Development and the Department of Justice, issued May 17, 2004 <a href="https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf">https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf</a>
Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007 <a href="https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf">https://www.lep.gov/guidance/HUD_guidance_Jan07.pdf</a>
Notice PIH 2018-24, Verification of Social Security Numbers (SSNs) and Social Security (SS) and Supplemental Security Income (SSI) Benefits; and Effective Use of the Enterprise Income Verification (EIV) System's Identity Verification Report <a href="https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2018-24_EIV_SSN_Notice_FINAL.pdf">https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2018-24_EIV_SSN_Notice_FINAL.pdf</a>
OMB Circular A-133 <a href="https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A133/a133.pdf">https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A133/a133.pdf</a>
Project-Based Voucher Program; Final Rule <a href="http://www.gpo.gov/fdsys/pkg/FR-2005-10-13/pdf/05-20035.pdf">http://www.gpo.gov/fdsys/pkg/FR-2005-10-13/pdf/05-20035.pdf</a>
VAWA Final Rule <a href="http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf">http://www.gpo.gov/fdsys/pkg/FR-2010-10-27/pdf/2010-26914.pdf</a>

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](https://www.hud.gov/program_offices/administration/hudclips).

The new HCV Guidebook may be found at:  
[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/guidebook](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/guidebook)

## Chapter 1

### OVERVIEW OF THE HOUSING CHOICE VOUCHER PROGRAM

#### INTRODUCTION

As a Public Housing Agency (PHA), the Housing Authority of the City of Long Beach (HALCB) receives funding for the Housing Choice Voucher (HCV) program from the U.S. Department of Housing and Urban Development (HUD). The HALCB is not a federal department or agency. A Public Housing Agency 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 HALCB enters into an Annual Contributions Contract (ACC) with HUD to administer the HCV program. The HALCB ensures compliance with federal laws, regulations and notices and establishes policies and procedures to clarify federal requirements to ensure consistency in program operation.

This chapter contains information about the HALCB's programs with emphasis on the HCV program. It also contains information about the purpose, intent and use of the Administrative Plan.

There are three parts to this chapter:

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

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

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

#### PART I: THE PUBLIC HOUSING AGENCY (PHA)

##### 1-I.A. OVERVIEW

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

##### 1-I.B. ORGANIZATION AND STRUCTURE OF THE PHA

The Housing Choice Voucher (HCV) program is funded by the federal government and administered by the Housing Authority of the City of Long Beach (HALCB) for the jurisdiction of city of Long Beach in the County of Los Angeles, California.

The officials of a PHA are known as commissioners or, collectively, as the Board of Commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the PHA conducts business, ensuring that policies are followed by PHA staff and ensuring that the PHA is successful in its mission.

The Board of Commissioners is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability. Formal actions of the PHA are taken through written resolutions, adopted by the Board of Commissioners and entered into the official records of the PHA.

The principal staff member of the PHA is the Executive Director (ED). The Executive Director is directly responsible for carrying out the policies established by the commissioners and is delegated the responsibility for hiring, training and supervising the remainder of the PHA's staff in order to manage the day-to-day operations to ensure compliance with federal and state laws and directives for the programs managed. In addition, the Executive Director's duties include budgeting and financial planning for the agency.

#### PHA Policy

The Board of Commissioners and the HALCB's Executive Director have delegated the management of the day-to-day operations of the PHA to the HALCB's Deputy Executive Director. The Deputy Executive Director acts as the Bureau Manager.

### **1-I.C. PHA 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.

#### PHA Policy

The mission of the Housing Authority of the City of Long Beach is to provide support and rental assistance for people in need to give them expanded access to affordable and safe housing by effectively utilizing government resources and community partnerships.

### **1-I.D. THE PHA'S PROGRAMS**

The HALCB administers the following programs:



### PHA Policy

The HALCB's Administrative Plan addresses policies for the HCV program and the following special programs:

- Homeownership
- Veterans Affairs Supportive Housing (VASH)
- Family Self-Sufficiency (FSS) program: HCV policies apply, along with the FSS Action Plan, which addresses specific FSS operations
- Emergency Housing Vouchers (EHV)

The HALCB also administers the following non-Public and Indian Housing (PIH) programs:

- Housing Opportunities for Persons with AIDS (HOPWA): dedicated to the housing needs of people living with HIV/AIDS.
- HUD's Continuum of Care (CoC) program, formerly Shelter Plus Care. If there is a conflict between the HALCB's Administrative Plan and HUD's COC regulations, Title 24, Part 578 shall prevail.

### **1-I.E. THE PHA'S COMMITMENT TO ETHICS AND SERVICE**

As a public housing agency, the HALCB is committed to providing excellent service to HCV program applicants and participants. The HALCB's standards include:

- Administer applicable federal and state laws and regulations to achieve high ratings in compliance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low-income families while ensuring that family rents are fair, reasonable and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities which address educational, socio-economic, recreational, and other human service needs.
- Promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program which maintains quality service and integrity while providing an incentive to 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 PHA's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer a high-performing agency through continuous improvement of the HALCB's support systems and commitment to our employees and their development.

the HALCB will make every effort to keep program participants informed of HCV program rules

and regulations and to advise participants of how the program rules affect them.

## **PART II: THE HOUSING CHOICE VOUCHER (HCV) PROGRAM**

## 1-II.A. OVERVIEW AND HISTORY OF THE PROGRAM

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

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

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

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

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

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

However, the Voucher program permitted families more options in housing selection. Rental housing still had to meet the basic housing quality standards, however, 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, PHAs 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 align the two housing programs, to the extent permitted by 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 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 housing costs.

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. HCV program rules and regulations are determined by the U.S. Department of Housing and Urban Development (HUD). The PHA is afforded choices in the operation of the program which are included in the PHA's Administrative Plan, a document approved by the PHA's Board of Commissioners.

The HCV program offers mobility to eligible families because their search for suitable housing may be anywhere in the PHA's jurisdiction and may also be eligible to move under portability to another PHA's jurisdiction.

When a family is determined eligible for the HCV program and funding is available, the PHA issues a Voucher. When the family finds a suitable housing unit, the PHA enters into a contract with the owner and the family enters into a lease with the owner. The PHA and the family make their respective payments to the owner so that the owner receives full rent.

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

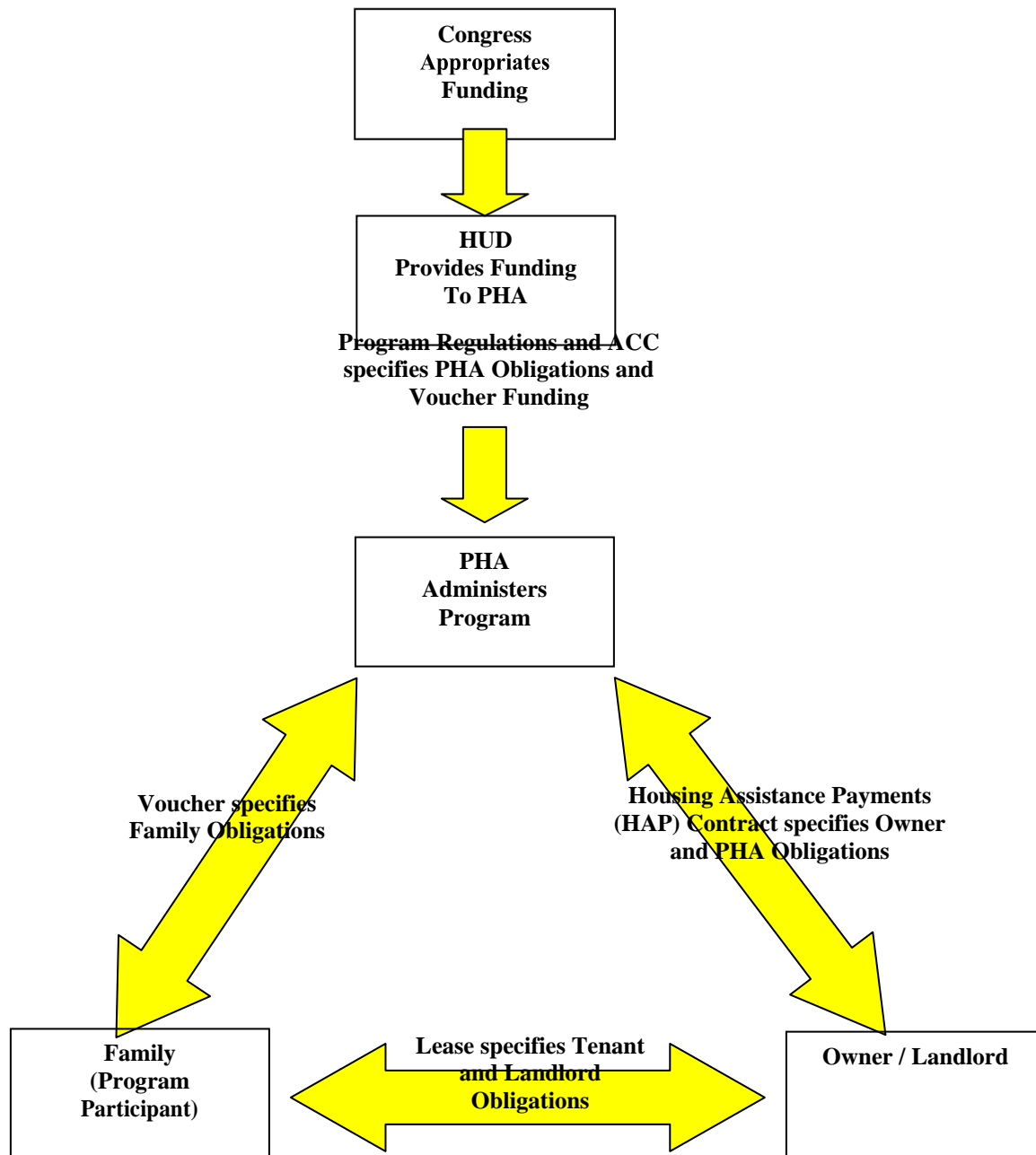
## **1-II.C. THE HCV PARTNERSHIPS**

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

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

The chart on the following page 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 PHAs;
- Provide technical assistance to PHAs on interpreting and applying HCV program requirements;
- Monitor PHA compliance with HCV program requirements and PHA performance in program administration.

**What does HALCB do?**

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

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

## **What does the Owner do?**

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine if the owner's tenancy requirements are met.
  - The PHA can provide some information to the owner, however, the primary responsibility for tenant screening rests with the owner.
  - The owner should consider family background factors such as rent and bill- paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the Housing Assistance Payments contract, executed with the PHA;
- Comply with all applicable fair housing laws and discriminate against no one;
- Maintain the housing unit in accordance with National Standards for the Physical Inspection of Real Estate (NSPIRE) and make necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the lease.



### **What does the Family do?**

The family has the following responsibilities:

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

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

## **1-II.D. APPLICABLE REGULATIONS**

Applicable regulations include:

- [24 CFR, Part 5, General HUD Program Requirements](#)
- [24 CFR, Part 8 – Non-Discrimination Based on Handicap in HUD Programs](#)
- [24 CFR, Part 35 – Lead-Based Paint \(LBP\) Poisoning Prevention](#)
- [24 CFR, Part 982 – Section 8 Tenant-Based: Housing Choice Voucher Program](#)
- [24 CFR, Part 983 – Project-Based Vouchers](#)
- [24 CFR, Part 985 – Section Eight Management Assessment Program \(SEMAP\)](#)

## **PART III: THE HCV ADMINISTRATIVE PLAN**

### **1-III.A. OVERVIEW AND PURPOSE OF THE ADMINISTRATIVE 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 HALCB's Public Housing Agency (PHA) Plan. This Administrative Plan is a supporting document to the PHA Plan and is available for public review as required by [24 CFR Part 903](#).

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

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

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

### **1-III.B. CONTENTS OF THE ADMINISTRATIVE PLAN** [\[24 CFR §982.54\]](#)

HUD regulations contain a list of what must be included in the Administrative Plan. The PHA Administrative Plan must cover PHA policies on these subjects:

- Selection and admission of applicants from the PHA waiting list, including any PHA admission preferences, procedures for removing applicant names from the waiting list and procedures for closing and reopening the PHA waiting list (Chapter 4);
- Issuing or denying Vouchers, including PHA policy governing the Voucher term and any extensions or suspensions of the Voucher term. 'Suspension' means stopping the clock on the term of a family's Voucher after the family submits a request for approval of the tenancy. If the PHA decides to allow extensions or suspensions of the Voucher term, the PHA Administrative Plan must describe how the PHA determines whether to grant extensions or suspensions and how the PHA determines the length of any extension or suspension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to the PHA 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 or alcohol abuse in accordance with [24 CFR §982.553](#) (Chapters 3 and 12);
- Encouraging participation by owners of suitable units located outside areas of low- income or minority concentration (Chapter 13);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);
- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy Standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12);
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising Voucher payment standards (Chapter 16);
- The method of determining that rent to owner is a reasonable rent (initially and during the term of a HAP contract) (Chapter 8);
- Special policies concerning Special Housing types in the program (e.g. use of shared housing) (Chapter 15);
- Policies concerning payment by a family to the PHA of amounts the family owes the PHA (Chapter 16);
- Interim Reexaminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the Board of Commissioners or other authorized officials to charge the Administrative Fee Reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required housing quality standards inspections (Chapter 8); and
- PHA screening of applicants for family behavior/suitability for tenancy (Chapter 3).

### **Mandatory vs. Discretionary Policy**

HUD makes a distinction between:

- Mandatory policies: those driven by legislation, regulations, current handbooks, notices and legal opinions; and
- Optional, non-binding guidance, including guidebooks, notices that have expired and recommendations from individual HUD staff.

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

Following HUD guidance, even though it is not mandatory, provides a PHA with a “safe harbor”.

HUD has already determined that the recommendations and suggestions it makes are consistent with mandatory policies.

If a PHA adopts an alternative strategy, it must make its own determination that the alternative approach is consistent with legislation, regulations and other mandatory requirements. There may be very good reasons for adopting a policy or procedure that is different than HUD's safe harbor, however, PHAs should carefully think through those decisions.

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

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

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

The PHA will revise this Administrative Plan as needed to comply with changes in HUD regulations. The original plan and any changes must be approved by the HALCB's Board of Commissioners, the pertinent sections included in the Public Housing Agency (PHA) Plan and a copy provided to HUD.

#### PHA Policy

The HALCB will review and update the plan as needed, to reflect changes in regulations, PHA operations, or when needed to ensure staff consistency in operation.

## Chapter 2

### FAIR HOUSING AND EQUAL OPPORTUNITY

#### INTRODUCTION

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

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

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

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

Part 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. The PHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Orders 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)
- 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
- Violence Against Women Reauthorization Act of 2013 (VAWA)

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

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

#### PHA Policy

No state or local nondiscrimination laws or ordinances apply.

## **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].

### PHA Policy

The PHA does not identify any additional protected classes.

The PHA 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**

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

## **Discrimination Complaints**

If an applicant or participant believes that any family member has been discriminated against by the PHA or an owner, the family should advise the PHA. 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 addition, the PHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

Upon receipt of a housing discrimination complaint, the PHA is required to:

- Provide written notice of the complaint to those alleged and inform the complainant that such notice was made
- Investigate the allegations and provide the complainant and those alleged with findings and either a proposed corrective action or an explanation of why corrective action is not warranted
- Keep records of all complaints, investigations, notices, and corrective actions [Notice PIH 2014-20]

### **PHA 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 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.)

## **PART II: POLICIES RELATED TO PERSONS WITH DISABILITIES**

### **2-II.A. OVERVIEW**

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

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

#### **PHA Policy**

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

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

All accommodation requests must be emailed to the Fair Housing and Reasonable Accommodation committee at [fhrac@longbeach.gov](mailto:fhrac@longbeach.gov)

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.

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

### **Types of Reasonable Accommodations**

When needed, the PHA 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 the PHA range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary, because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA 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.

### **PHA Policy**

The PHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, the PHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

## **2-II.D. VERIFICATION OF DISABILITY**

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

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

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

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

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

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The PHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The PHA will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- 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 Department of HUD and Justice: Reasonable Accommodations Under the Fair Housing Act](#) and [HUD Notice PIH 2010-26: Non-Discrimination and Accessibility for Persons with Disabilities](#)]

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 overall size of the PHA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, 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.

**PHA Policy**

After a request for an accommodation is presented, the PHA will respond in writing within 10 business days.

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 the PHA 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), the PHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

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

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

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

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

### **PHA Policy**

To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with PHA 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 nondiscrimination and accessibility in federally funded housing programs.
- The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

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

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

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



## **2-II.H. DENIAL OR TERMINATION OF ASSISTANCE**

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

When applicants with disabilities are denied assistance, the notice of denial must inform them of the PHA's informal review process and their right to request 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 the PHA's informal hearing process and their right to request a hearing and reasonable accommodation.

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

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

### **2-III.A. OVERVIEW**

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

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

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

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

## **2-III.B. ORAL INTERPRETATION**

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

### PHA Policy

The PHA will utilize a language line for telephone interpreter services.

When exercising the option to conduct remote briefings, informal reviews, or hearings, however, the PHA 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 PHA. The PHA, 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 PHA will not rely on the minor to serve as the interpreter.

The PHA 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.

### PHA Policy

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

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

If there are fewer than 50 persons in a language group that reaches the 5 percent trigger, the PHA 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, the PHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

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

### **PHA Policy**

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

If the PHA determines it is appropriate to develop a written LEP plan, the following five steps will be taken: (1) Identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

## **PART IV: AFFIRMATIVELY FURTHERING FAIR HOUSING AND ASSESSMENT OF FAIR HOUSING**

### **2-IV.A. OVERVIEW**

From its inception, the Fair Housing Act not only prohibited discrimination in housing related activities and transactions, but also imposed a duty to Affirmatively Further Fair Housing (AFFH). HUD's AFFH rule sets out a framework for PHAs to take meaningful actions to overcome historic patterns of segregation, promote fair housing choice and foster inclusive communities that are free from discrimination.

HUD's Affirmatively Furthering Fair Housing (AFFH) Rule includes a requirement for PHAs to conduct an Assessment of Fair Housing (AFH). The AFH planning process helps communities analyze challenges to fair housing choice and establishes goals and priorities to address fair housing barriers within the community.

For purposes of the AFFH rule, meaningful actions "means significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity."

### **2-IV.B. Affirmatively Furthering Fair Housing**

HUD's Affirmatively Furthering Fair Housing rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. The duty to affirmatively further fair housing extends to all of HACLB's activities and programs relating to HUD.

1. In July 2015, HUD published a [Final Rule for Affirmatively Furthering Fair Housing](#) that clarifies the obligations for HUD funding recipients to:
  - Analyze HACLB's fair housing landscape; and
  - Set locally determined fair housing priorities and goals through an Assessment of Fair Housing (AFH).
2. HACLB will conduct annual planning and review admissions policies to:
  - Examine existing and proposed housing programs;
  - Identify any impediments to fair housing choice within those programs;
  - Address impediment(s) in a reasonable fashion in view of the resources available;
  - Work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require HACLB's involvement; and
  - Maintain records reflecting these analyses and actions.

### **2-IV.C. City of Long Beach Assessment of Fair Housing**

The City of Long Beach conducted an Assessment of Fair Housing (AFH) through the collection of community input and the analyses of HUD-provided and supplemental data. The City of Long Beach identified fair housing issues that affect individual and household access to housing in the

city. Through this process, the leading contributing factors to these fair housing issues have also been identified. Furthermore, goals and milestones were developed to address each fair housing issue and the related contributing factors.

The City of Long Beach's Assessment of Fair Housing (AFH) was adopted by the City Council on December 13, 2016. The Assessment of Fair Housing is required by HUD. The AFH identifies the city's fair housing issues, determined the factors that significantly contribute to identified issues, and set fair housing goals to overcome these concerns. While high-quality data and thorough analyses are a central part of the AFH, the value of community participation and input received through a series of outreach events, surveys, stakeholder meetings, and interviews conducted over nine months was key in developing the AFH. The goals identified in the AFH will inform the strategies and actions of the upcoming 2018-2022 Consolidated Plan, including associated Annual Action Plans.

<b>EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]</b>
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A person with a disability, as defined under federal civil rights laws, is any person who:

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

The phrase “physical or mental impairment” includes:

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

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

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

“Is regarded as having an impairment” is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the 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.



## Chapter 3

### ELIGIBILITY

#### INTRODUCTION

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

To be eligible for the HCV program:

- The applicant family must:
  - Qualify as a family as defined by HUD and the PHA.
  - Have income at or below HUD-specified income limits.
  - Qualify on the basis of citizenship or the eligible immigrant status of family members.
  - Provide social security number information for household members as required.
  - Consent to the PHA's collection and use of family information as provided for in PHA-provided consent forms.
  - Not currently be receiving a duplicative subsidy.
  - Meet net asset and property ownership restriction requirements.
- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and HACLB 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 that can cause HACLB to deny assistance.

To be eligible for the HCV program, applicants must meet the following requirements:

- **Verification of Waiting List Status (Chapter 4-III.C).** HACLB staff will verify local preference(s) and eligibility for assistance under HUD's 75% Selection Rule.
- **Family Definition (3-I.B & 3-I.E).** Applicants must meet HACLB's definition of a "family" and college students require additional review. ([24 CFR §5.403](#))
- **Income Limits (3-II.A).** Annual income must be at or below HUD's established income limits for the family size and program requirements. Please note: College students require additional review. ([24 CFR §982.201\(b\)](#))

- **Citizenship/Eligible Immigration Status (3-II.B).** Applicants must qualify on the basis of citizenship or eligible immigration status. ([24 CFR, Subpart E](#))
- **HCV program Compliance (3-II.C-D & 3-III.C.1-6).** All family members must comply with HCV program requirements and consent to HACLB's use of information. ([24 CFR, Subtitle B, Chapter IX, Part 982, Subpart L](#))
- **No Outstanding Public Housing Agency (PHA) Debts (3-III.C.7).** Adult applicants must be free of debts to any PHA or must be current with a Repayment Agreement to any PHA.
- **Criminal Background Check (3-III.B-C).** All adult members must pass HACLB's criminal background check. ([24 CFR, Subtitle B, Chapter IX, Part 982, Subpart L](#))
- **Previous Behavior in Assisted Housing (3-III.C).** All adult family members must not have violated any family Obligation during previous program participation within three (3) years prior to final eligibility determination.



## PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

### 3-I.A. OVERVIEW

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

### 3-I.B. FAMILY AND HOUSEHOLD [[24 CFR §100.201\(c\)](#), [HUD-50058-I page 13](#), and [Equal Access in Accordance with Gender Identity Final Rule \(FR 5863-F-02\)](#)]

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, disabled person, near-elderly person, or any other single person; 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, or the remaining member of a tenant family. The PHA has the discretion to determine if any other group of persons qualifies as a family.

*Gender Identity* means actual or perceived gender characteristics.

*Sexual orientation* means homosexuality, heterosexuality, or bisexuality.

#### PHA Policy

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

Each family must identify the individuals to be included in the family at the time of application and must update this information if the family's composition changes.

#### **Household**

*Household* is a broader term that includes additional people who live in an assisted unit, e.g., live-in aides, foster children and foster adults with HACLB's approval.

### 3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

#### **Family Breakup** [[24 CFR §982.315](#); Notice PIH 2017-08]

Except under the following conditions, HACLB 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 or stalking, HACLB must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence and stalking, 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, or stalking, 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, HACLB is bound by the court’s determination of which family members continue to receive assistance.

#### PHA 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, the PHA will determine which family will retain their placement on the waiting list or continue to receive assistance. In making its determination, THE PHA will take into consideration the following factors: (1) the interest of any minor children, including custody arrangements; (2) the interest of any ill, elderly or Disabled family members; (3) the interest of any family member who is the victim of domestic violence, dating violence or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals.

#### **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 housing unit when other members of the family have left the unit. Household members such as live-in aides, foster children and foster adults do not qualify as remaining members of a family.

If dependents are the only “remaining members of a tenant family” and there is no family member

able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on “Caretakers for a Child.”

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

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

#### PHA 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** [[HUD-50058-I](#)]

A family may have a spouse or co-head of household, but not both. *Spouse* means the marriage partner of the head of household.

#### PHA 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 a family member who is equally responsible with the head of household for ensuring that the family fulfills all of the HCV program responsibilities, but who is not a spouse. A family can have only one co-head.

#### PHA Policy

Minors who are emancipated under state law may be designated as a cohead.

*Other Adult* means an adult family member other than the head of household, spouse, or co-head. Foster adults and live-in aides are not considered other adults.

### **3-I.F. DEPENDENT** [[24 CFR §5.603](#)]

A *dependent* is a family member who is under 18 years of age, 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: head of household, spouse, co-head of household, foster children/adults and live-in aides. Identifying dependents is important because each dependent qualifies the family for an allowance, as described in Chapter 6.

#### **Joint Custody of Dependents**

##### PHA 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 51 percent or more of the time. “51% of the time” is defined as 183 days of the year, which need not run consecutively.

When a dependent is claimed by more than one applicant or participant family, the family with primary custody at the time of admission or reexamination will be able to claim the dependent. If there is a dispute about which family should claim the dependent, THE PHA will make the determination based on available documents such as court orders, an IRS return showing which family claimed the dependent for income tax purposes or school records or other comparable document(s).

### **3-I.G. FULL-TIME STUDENT** [[24 CFR §5.603](#); [HCV Guidebook, Chapter 5, pg. 5-29](#)]

A *Full-Time Student* (FTS) is a person who attends 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 full-time student is important because:

1. Each full-time student, other than the head of household, spouse, or co-head of household, qualifies the family for a dependent allowance; and
2. The income of a full-time student 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 [24 CFR §5.403](#), [Equal Access in Accordance with Gender Identity Final Rule 2016](#), and [Equal Access to Housing Final Rule 2012](#)]

#### **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 of household, spouse, co-head, or sole member is an elderly person. Identifying Elderly families is important because these families qualify for special deductions from income, as described in Chapter 6.

**3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY** [[24 CFR §5.403](#), [Equal Access in Accordance with Gender Identity Final Rule 2016 \(FR 5863-F-02\)](#), and [Equal Access to Housing Final Rule 2012 – FR Notice 5350-F-02](#)]

**Persons with Disabilities**

Under the HCV program, special rules apply to persons with disabilities and to any family whose head of household, 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, PHAs 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 of household, spouse or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income, as described in Chapter 6.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent HACLB from denying assistance for reasons related to alcohol and drug abuse following policies in Part III of this chapter or from terminating assistance following policies in Chapter 12.

**3-I.J. GUESTS** [[24 CFR §5.100](#)]

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

**PHA Policy**

A guest can remain in the assisted unit no longer than 30 consecutive days or a total of 90 cumulative calendar days 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 51 percent of the time, are not subject to the time limitations of guests as described above.

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

In all cases, the family must abide by their residential lease. The PHA staff will strongly encourage the family to receive written approval from the owner regarding any house rules.



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

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

The term *foster child* is not specifically defined by regulation. Foster children/adults are considered household members, but not family members. The income of foster children/adults is not counted in annual income and foster children/adults do not qualify for a dependent deduction. [[24 CFR §5.603](#); [HUD-50058-I, page 13](#)]

#### PHA Policy

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

A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of space standards as described in Section 8-I.F. of this policy.

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

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

#### **Definitions of Temporarily and Permanently Absent**

#### PHA Policy

Generally, an individual who is or is expected to be absent from the assisted unit for 90 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 90 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

#### **Absent Students**

#### PHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to THE PHA 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** [[24 CFR §5.403](#)]

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

#### PHA Policy

If a child is placed in foster care, THE PHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that

the child will be returned to the home in less than 90 calendar days, the child will be removed as a family member.

### **Absent Head of Household, Spouse or Co-head**

#### PHA Policy

An employed head of household, spouse or co-head absent from the housing unit more than 30 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.

#### PHA Policy

An individual confined to a nursing home or hospital on a permanent basis 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**

#### PHA Policy

The family must request the PHA approval for the return of any adult family member that the PHA 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** [\[24 CFR §982.316\(b\)\]](#)

*Live-in aide* means a person who resides with one or more elderly persons, 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 housing unit except to provide the necessary supportive services. [\[24 CFR §5.403\]](#)

PHAs must approve a live-in aide if needed as a Reasonable Accommodation in accordance with [24 CFR Subtitle A, Part 8](#). A live-in aide is a member of the household, not the family and the income of the aide is not considered in income calculations. [\[24 CFR §5.609\(b\)\]](#)

Relatives may be approved as live-in aides if all of the criteria defining a live-in aide is met. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

#### PHA Policy

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near elderly, or disabled family member.

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

The 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.

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

## PART II: BASIC ELIGIBILITY CRITERIA

### 3-II.A. INCOME ELIGIBILITY AND TARGETING

#### Income Limits

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

#### Types of Low-Income Families [[24 CFR §5.603\(b\)](#)]

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

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

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

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

#### Using Income Limits for Eligibility [[24 CFR §982.201](#)]

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

- A *Very Low-Income* Family;
- A *Low-Income* Family that is "continuously assisted" under the [United States Housing Act of 1937 \(the "Act"\)](#). A family is considered to be continuously assisted if the family is already receiving assistance under any United States Housing Act program at the time the family is admitted to the HCV program [[24 CFR §982.4](#); 24 CFR 982.201(b)]

#### PHA Policy

A family will be considered to be continuously assisted if the family has no more than 180 calendar days break between leasing a unit under any U.S. Housing Act program and the eligibility determination made to the PHA's HCV program.

- A *Low-Income* Family that meets additional eligibility criteria specified in the PHA's Administrative Plan. Such additional PHA criteria must be consistent with the PHA plan and with the consolidated plans for local governments in the PHA's jurisdiction;
- A *Low-Income* Family that qualifies for Voucher assistance as a non-purchasing household living in HOPE 1 (public housing Homeownership), HOPE 2 (HOPE for Homeownership of multi-family units) project. (Section 8(o)(4)(D) of the [United States Housing Act of 1937](#) (42 U.S.C. §1437f(o)(4)(D)));
- 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](#);

- A *Low-Income* Family that qualifies for Voucher assistance as a non-purchasing family residing in a project subject to a resident Homeownership program under [24 CFR §248.173](#).

HUD permits PHAs to establish additional categories of low-income families that may be determined eligible. Additional categories must be consistent with the PHA's Administrative Plan and Consolidated Plan in the PHA's jurisdiction.

#### PHA Policy

The PHA has not established any additional categories of eligible low-income families.

#### **Using Income Limits for Targeting** [[24 CFR §982.201](#)]

At least 75 percent of the families admitted to HACLB's program during a fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if HACLB 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 [United States Housing Act of 1937](#) and families living in eligible low-income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not subject to the 75 percent restriction.

### **3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS** [[24 CFR, Subtitle A, Part 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.

At the time of application, the PHA must notify all applicants for assistance about the rule restricting assistance based on citizenship status and of the requirement to submit documentation of eligible status or to elect not to claim eligible status.

all applicant families must be notified of the requirement to submit evidence of their citizenship status. Where feasible and in accordance with HACLB'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 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 of household, spouse, co-head, and any other family member 18 or older and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children or foster adults.

#### ***U.S. Citizens and Nationals***

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

#### **PHA Policy**

Family members who declare 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 Noncitizens***

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a Verification Consent Form and cooperate with the PHAs 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 was granted, the person's age and housing assistance admission date of the family.

Lawful residents of the Marshall Islands, the Federated States of Micronesia and Palau, together known as the Freely Associated States (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*** [[24 CFR §5.522](#)]

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head of household, 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. 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 informed of their right to request a hearing if the determination is contested. 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, Subtitle A, Part 5, Subpart A, §5.514\(d\)\(e\) and \(f\)](#)] PHAs 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 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\(a\)](#)]

**PHA Policy**

The PHA will not provide assistance to a family before the verification of at least one family member. When the PHA determines that an applicant does not include any citizens, nationals or eligible noncitizens, the family will be sent a written notice within fifteen (15) 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 their right to request an appeal to the U.S. 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 will also inform the applicant that assistance will 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\(g\) and \(h\)](#)] For new occupants joining the assisted family, the PHA verifies status at the first interim or regular reexamination following the 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. Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

**PHA Policy**

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

**3-II.C. SOCIAL SECURITY NUMBERS** [[24 CFR §5.216](#), [§5.218](#) and [HUD 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. 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. Participants age 62 or older as of January 31, 2010, whose determination of eligibility began before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

PHAs must deny assistance to an applicant if the SSN disclosure and documentation requirements contained in [24 CFR §5.216](#) are not met.

**3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION** [[24 CFR §5.230](#) and [HCV Guidebook, Chapter 5, page 5-13](#)]

HUD requires each adult family member and the head of household, spouse or co-head, regardless of age, to sign [Form HUD-9886](#), Authorization for the Release of Information/Privacy Act Notice 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 consent forms and verification requirements.

PHAs 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 Subtitle A, Part 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)]

#### PHA Policy

The PHA has established a policy that revocation of consent to access financial records will result in denial of admission.

### **3-II.E. STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION**

[[24 CFR §5.612](#), [Federal Register Notice 4/10/06](#)]

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

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, and does not have a dependent child, 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 their parents in accordance with PHA policy, the income of the student's parents will not be considered in determining 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.

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>

#### **Definitions**

In determining whether the new eligibility restrictions apply to a student, PHAs will rely on the following definitions. [[Federal Register Notice 4/10/06, page 18148](#)]

#### ***Dependent Child***

In the context of the student eligibility restrictions, *dependent child* means a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* in [24 CFR §5.603](#).

## *Independent Student*

### PHA Policy

the PHA will consider a student “independent” from their 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 their 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 an 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 their 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 their 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***

PHAs 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***

#### **PHA Policy**

For purposes of student eligibility restrictions, the definition of *parents* includes biological or adoptive parents, stepparents, as long as the person is currently married to the biological or adoptive parent, and guardians (e.g., grandparents, aunts, uncles, godparents, etc.).

### ***Person with Disabilities***

PHAs will use the statutory definition under section 3(b)(3)(E) of the [United States Housing Act of 1937](#) to determine whether a student is a *person with disabilities* (see Exhibit 3-1).

### ***Veteran***

#### **PHA Policy**

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

### ***Vulnerable Youth***

#### PHA 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 their own, apart from their parents, the PHA must determine whether a 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 their 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.

#### PHA Policy

For any student who is subject to the [24 CFR §5.612](#) restrictions, the PHA will:

Follow its usual policies in determining whether a student individually and a student's "family" collectively are eligible for the program to determine whether the student is independent from their parents.

If the PHA determines that the student, the student's parents (if applicable) or the student's "family" is not eligible, a notice of denial will be sent in accordance with the policies in Section 3-III.F and the applicant will have the right to request an Informal Review, in accordance with Section 16-III.B.

## ***Determining Parental Income Eligibility***

### **PHA 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, the PHA will obtain a joint income declaration and certification of joint income from the parents.

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

If the student's parents are divorced or separated, the PHA will obtain an income declaration and certification of income from each parent.

If the student has been living with one of their parents and has not had contact with or does not know where to contact their other parent, the PHA will require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. the PHA will then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

In determining the income eligibility of the student's parents, the PHA will use the income limits for the jurisdiction in which the parents live.

## **3-II.F. EIV SYSTEM SEARCHES [Notice PIH 2018-18; EIV FAQs; EIV System Training 9/30/20]**

### **Existing Tenant Search**

Prior to admission to the program, the 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.

### **PHA Policy**

The PHA 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. The PHA 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.

### **PHA Policy**

The PHA 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.

The PHA 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, the PHA will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

### **Income and Income Validation Tool (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**

An applicant that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance. In addition, 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].

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 Guidebook, Chapter 5, page 5-35](#)] Denial of assistance includes any of the following:

- Not placing the applicant'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 or provide assistance under portability.

**Prohibited Reasons for Denial of Program Assistance**

HUD rules prohibit denial of program assistance to the program based on any of the following criteria [[24 CFR §982.202\(b\)](#) and [24 CFR §5.2005\(b\)](#)]:

- Race, color, religion, national origin, sex, familial status, disability, and age. See Chapter 2 for more information on fair housing requirements;
- Where an applicant lives prior to admission to the program;
- Where the applicant will live with program assistance. Although eligibility is not affected by where the applicant will live, there may be restrictions on the applicant's ability to move outside of HACLB's jurisdiction under portability. (see Chapter 10);
- Whether members of the family are unwed parents, recipients of public assistance or children born out of wedlock;
- Whether the applicant family includes children;
- Whether an applicant family decides to participate in a Family Self-Sufficiency program;
- Whether or not a qualified applicant is or was a victim of domestic violence, dating violence, sexual assault, or stalking 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)]**

HUD requires PHAs to deny assistance in the following cases:

- Any member of the household has been evicted from federally assisted housing in the last three years for drug-related criminal activity. HUD permits, but does not require, PHAs to admit an otherwise-eligible applicant family if the household member has completed a drug rehabilitation program approved by the PHA 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).

#### PHA Policy

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

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

#### PHA Policy

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

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

#### PHA Policy

In determining reasonable cause, the PHA will consider all credible evidence, including, but not limited to, any record of convictions, arrests or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A record or records of arrest will not be used as the sole basis of determining reasonable cause. The PHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.
- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

### 3-III.C. 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;

#### PHA Policy

The PHA defines *not sufficient for the size of the family* as being overcrowded based on space standards in Chapter 8 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

#### **Criminal Activity** [[24 CFR §982.553](#) and [Notice PIH 2003-11](#)]

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

#### PHA 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 applicant 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 activity that may threaten the health or safety of property owners and management staff and persons performing contract administration functions or other responsibilities on behalf of the PHA (including PHA employees or PHA contractors, subcontractors, or agents).

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.E. 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, PHAs to deny assistance based on the applicant 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)].

**PHA Policy**

The PHA **will not** deny assistance to an otherwise eligible applicant who previously failed to meet an obligation under the Family Self-Sufficiency (FSS) program.

*Authority to Deny or Termination Assistance.* [[24 CFR §982.552\(c\)](#)] the PHA **will** deny assistance to an applicant family if:

The family has failed to comply with any Family Obligation under the HCV program.

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 the PHA or to any PHA in connection with the HCV or Public Housing programs under the [United States Housing Act of 1937](#).

The family has breached the terms of a Repayment Agreement entered into with the PHA or any other PHA, unless the family repays the full amount of the debt owed 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 the PHA personnel, including contractors or agents.

*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 included.

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

In making a decision to deny assistance, the PHA will consider the factors discussed in Section 3-III.E. 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** [[24 CFR §5.903](#) and [Notice PIH 2003-11](#)]

PHAs are authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program. This authority assists PHAs in complying with requirements to deny assistance to applicants who engage in or have engaged in certain criminal activities. In order to obtain access to records, PHAs require adult household members to sign a consent form.

##### PHA Policy

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

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

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\(a\)\(2\)\(i\)](#)]

##### PHA Policy

The PHA will use the Dru Sjodin National Sex Offender database to screen applicants for admission.

Additionally, PHAs 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 a PHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the PHA will notify the household of the proposed action and provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and/or relevance of the information prior to a denial of admission. [[24 CFR §5.903\(f\)](#) and [§5.905](#)]



### **Screening for Suitability as a Tenant** [\[24 CFR §982.307\]](#)

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

#### PHA Policy

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

The PHA will inform the owner that screening and selection for tenancy of the family 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, care of the housing 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 PHAs to provide prospective owners with the current and prior address (as shown in PHA records) and the name and address (if known) of the owner of the family's current and prior addresses.

HUD permits PHAs 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.

PHAs may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence or stalking except at the written request or with the written consent of the individual providing the documentation. [\[24 CFR §5.2007\]](#)

#### PHA Policy

The PHA 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 HQS inspection or before. the PHA will not provide any additional information to owners, such as tenancy history, criminal history, etc.

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

#### Evidence [[24 CFR §982.553\(c\)](#)]

##### PHA Policy

The PHA will use the concept of preponderance of the evidence as the standard for making decisions to deny assistance.

*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 is determined by the greater weight of all the evidence, rather than the number of witnesses.

#### Consideration of Circumstances [[24 CFR §982.552\(c\)\(2\)](#)]

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

##### PHA Policy

The PHA will consider the following factors prior to making a 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 or stalking;

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, an arrest may trigger an investigation to determine whether the applicant 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 applicant 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 applicant 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.

The PHA 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.

While a record or records of arrest will not be used as the sole basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant 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 applicant 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 applicant 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

The PHA 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 from the Application** [[24 CFR §982.552\(c\)\(2\)\(ii\)](#)]

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

#### PHA 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.

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

### **Reasonable Accommodation** [[24 CFR Part 8](#) and [24 CFR §982.552\(c\)\(2\)\(iv\)](#)]

If the applicant family includes a person with disabilities, a PHA's decision concerning denial of admission is subject to consideration of Reasonable Accommodation.

#### PHA Policy

If the applicant indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, the PHA will determine whether the behavior is related to the disability. If so, upon the family's request, the PHA will determine whether admitting the family as a reasonable accommodation is appropriate. The PHA 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 applicant family is eligible for assistance, the PHA will notify the family when it extends the invitation to attend the Voucher briefing appointment. [Chapter 5]

If a PHA determines that an applicant 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)

#### **PHA Policy**

Prior to issuing a Notice of Denial, the PHA will notify the applicant in writing of the proposed determination and provide ten (10) business days to dispute the accuracy and/or relevance of the information used for the determination.

If the applicant does not contact the PHA to dispute the information within the 10- day period, the PHA will proceed with issuing a Notice of Denial. An applicant that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the Informal Review process.

The applicant will be notified of a decision to deny assistance in writing within fifteen (15) business days of the determination.

If a PHA uses a criminal record or sex offender registration information obtained under [Title 24, Part 982, 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/or relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record. [[24 CFR §5.903\(f\)](#) and [§5.905](#)]

PHAs must give the applicant 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\(d\)](#)]

#### **PHA Policy**

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

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

### **3-III.H. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE and STALKING**

The [Violence Against Women Reauthorization Act of 2013 \(VAWA\)](#) and the HUD regulation at [24 CFR §5.2005\(b\)](#) prohibit PHAs from denying an applicant admission to the HCV program “on the basis that the applicant is or was a victim of domestic violence, dating violence, sexual assault or stalking, if the applicant otherwise qualifies for assistance or admission.”

Definitions of key terms used in VAWA are provided in section 16-IX of this Plan, along with general VAWA requirements and policies.

#### **Notification**

VAWA 2013 expanded notification requirements to include the obligation for PHAs to provide applicants who are denied assistance with a notice of rights and the [Form HUD-5380](#) and [Form HUD-5382](#) at the time the applicant is denied.

#### **PHA Policy**

The PHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking 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 the PHA’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, or stalking, 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.

The PHA will include in its notice of denial the VAWA information described in section 16-IX.C of this plan as well as including a copy of the form HUD5382. The PHA will request in writing that an applicant wishing to claim protection under VAWA notify the PHA within 14 business days.

## **Documentation**

### ***Victim Documentation*** [[24 CFR Part 5, Subpart L, §5.2007](#)]

#### PHA Policy

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

### ***Perpetrator Documentation***

#### PHA 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 their 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 their 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 Part §8.3](#)]

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

- (1) Physical or mental impairment includes:
  - (a) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; 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* mean functions such as caring for oneself, 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.

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.



<b>EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION</b> [ <a href="#">Title 20 U.S.C. §1001</a> and <a href="#">§1002</a> ]
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**Eligibility of Students for Assisted Housing Under Section 8 of the U.S. Housing Act of 1937; Supplemental Guidance;** [Federal Register, April 10, 2006]

*Institution of Higher Education* shall have the meaning given this term in the Higher Education Act of 1965 in [Title 20 U.S.C. §1001](#) and [§1002](#).

*Definition of “Institution of Higher Education”* From [Title 20 U.S.C. §1001](#)

- (a) Institution of higher education. For purposes of this chapter, other than subchapter IV and part C of subchapter I of Chapter 34 of Title 42, the term “institution of higher education” means an educational institution in any State that:
- (1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate;
  - (2) Is legally authorized within such State to provide a program of education beyond secondary education;
  - (3) Provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;
  - (4) Is a public or other nonprofit institution; and
  - (5) Is accredited by a nationally recognized accrediting agency or association or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.
- (b) Additional institutions included. For purposes of this chapter, other than subchapter IV and part C of subchapter I of Chapter 34 of Title 42, the term “institution of higher education” also includes—
- (1) Any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4) and (5) of subsection (a) of this section; and
  - (2) A public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students, persons who are beyond the age of compulsory school attendance in the State in which the institution is located.
- (c) List of accrediting agencies. For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

*Definition of “Institution of Higher Education” From [20 U.S.C. §1002](#)*

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

- (1) Inclusion of additional institutions. Subject to paragraphs (2) through (4) of this subsection, the term “institution of higher education” for purposes of subchapter IV of this chapter and part C of subchapter I of Chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—
  - (A) A proprietary institution of higher education (as defined in subsection (b) of this section);
  - (B) A postsecondary vocational institution (as defined in subsection (c) of this section); and
  - (C) Only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

(2) Institutions outside the United States

- (A) In general. For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001 (a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—
  - (I) In the case of a graduate medical school located outside the United States—
    - (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 ~~educ~~’” 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 the PHA with the information needed to determine the family's eligibility. HUD requires the PHA to place all families that apply for assistance on a waiting list. When HCV assistance becomes available, the PHA must select families from the waiting list in accordance with HUD requirements and PHA policies as stated in the administrative plan and the annual plan.

The PHA is required to adopt 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 the PHA 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 the PHA affirmatively further fair housing goals in the administration of the program [24 CFR 982.53, HCV GB p. 4-1]. Adherence to the selection policies described in this chapter ensures that the PHA will be in compliance with all relevant fair housing requirements, as described in Chapter 2.

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

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

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

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



## **PART I: THE APPLICATION PROCESS**

### **4-I.A. OVERVIEW**

This part describes the PHA policies for making applications available, accepting applications making preliminary determinations of eligibility, and the placement of applicants on the waiting list. This part also describes the PHA's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

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

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

#### PHA Policy

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

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

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

Families may obtain application forms from the PHA's office during normal business hours. Families may also request – by telephone or by mail – that an application be mailed to them via first class mail.

Completed applications must be returned to the PHA by mail, electronically, by fax, or submitted in person during normal business hours. Applications must be complete in order to be accepted by the PHA for processing. If an application is incomplete, the PHA will notify the family of the additional information required.

#### **4-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS**

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

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

##### **Limited English Proficiency**

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

#### **4-I.D. PLACEMENT ON THE WAITING LIST**

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

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

##### **Ineligible for Placement on the Waiting List**

###### PHA Policy

If the PHA can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list. Where a family is determined to be ineligible, the PHA will send written notification of the ineligibility determination within 10 business days of receiving a complete application. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review and explain the process for doing so (see Chapter 16).

##### **Eligible for Placement on the Waiting List**

###### PHA Policy

The PHA will send written notification of the preliminary eligibility determination within 10 business days of receiving a complete 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.

Applicants will be placed on the waiting list according to any preference(s) for which they qualify, and the date and time their complete application is received by the PHA.



## **PART II: MANAGING THE WAITING LIST**

### **4-II.A. OVERVIEW**

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

In addition, HUD imposes requirements on how a PHA may structure its waiting list and how families must be treated if they apply for assistance from a PHA that administers more than one assisted housing program.

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

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

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

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

HUD requires the PHA to maintain a single waiting list for the HCV program unless it serves more than one county or municipality. Such PHAs are permitted, but not required, to maintain a separate waiting list for each county or municipality served.

#### PHA Policy

The PHA will maintain a single waiting list for the HCV program.

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

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

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

#### PHA Policy

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



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

##### **Closing the Waiting List**

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

##### PHA Policy

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

##### **Reopening the Waiting List**

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

##### PHA Policy

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

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

*HACLB will give public notice by publishing the relevant information on the HACLB website and in suitable media outlets, ensuring notice is given in local newspapers of general circulation, minority media and other suitable media outlets. All notices shall be provided in English, Spanish, Khmer and Tagalog, as well as any other languages deemed appropriate, pursuant to the LEP procedures contained in this Plan.*

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

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

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

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

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class

PHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

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

##### **PHA Policy**

The PHA will monitor the characteristics of the population being served and the characteristics of the population as a whole in the PHA'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**

##### **PHA Policy**

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

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

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

##### **Purging the Waiting List**

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

##### **PHA Policy**

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

To update the 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 and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, by email, or by fax. Responses should be postmarked or received by the PHA not later than 15 business days from the date of the PHA letter.

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.

## **Removal from the Waiting List**

### PHA Policy

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

If a family is removed from the waiting list because the PHA 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 PHA'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 the PHA 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.

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

### **4-III.B. SELECTION AND HCV FUNDING SOURCES**

#### **Special Admissions [24 CFR 982.203]**

HUD may award funding for specifically named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, the PHA 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. The PHA must maintain records showing that such families were admitted with special program funding.

#### **Targeted Funding [24 CFR 982.204(e)]**

HUD may award a PHA funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. 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.

#### PHA Policy

HACLB administers the following types of targeted funding:

Coordinated Entry System (CES)/Continuum of Care (CoC)

Housing Opportunities for Person with AIDS (HOPWA)

Non-Elderly Disabled (NED)

Veterans Affairs Supportive Housing (VASH)

Homeless Vouchers (EHV)

#### **Regular HCV Funding**

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

#### 4-III.C. SELECTION METHOD

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

**Local Preferences** [24 CFR §982.207 and HCV GB, page 4-16]

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

##### PHA Policy

HACLB will first offer preferences to applicants who are residents of HACLB's jurisdiction who qualify for the following preferences.

#### 1. **Waiting List Order**

HACLB's waiting list will be maintained with the following guidelines:

	HCV waitlist	PBV waitlist	HOPWA waitlist	CES waitlist	EHV waitlist
Goldstar Parent		64			
CES				32	
Eligible in-place families		32			
Displaced due to Government Action	16	16			
HOPWA			16		
Live/Work	8	8			
Elderly	2	2			
Disabled	2	2			
Veteran	1	1			
Within preferences sorted by:	date/time	date/time	date/time	date/time	date/time

#### 2. **Local Preference Definitions** [24 CFR §982.207]

An applicant's preference(s) are verified when selected from the waiting list. When HACLB wishes to change its current preference system, a notice will be published, including an opportunity for public comment. An opportunity for public comment can be a public meeting or an opportunity to submit written comment.

##### 1. **Coordinated Entry System (CES)/Continuum of Care Preference.**

Applicants who experienced homelessness, displacement or are at risk of

homelessness or displacement. HCV funding for this preference is based on funding availability, as approved by HACLB.

- Homeless applicants referred by the City of Long Beach Multi-Service Center, after completing intake, assessment and development of an individual service plan.
- Domestic Violence applicants, as certified by the Multi-Service Center as applicants with household member(s) who are homeless due to acts of domestic violence, dating violence, sexual assault, or stalking, as certified by the Multi-Service Center.
- Family Preservation program applicants referred by the Los Angeles County Department of Children and Family Services (DCFS) -provides support to strengthen and preserve families whose children are at risk of placement in out-of-home care.

**2. HOPWA Participant Expiration Preference.**

HACLB will offer a preference to current HACLB HOPWA program participants in good standing with the program prior to the termination date of the family's HOPWA program participation, when applicable.

**3. Displaced Due to Governmental Action Preference.**

HACLB will offer a preference to applicants displaced: by government action or by an event that resulted in the area in which they resided in being declared a federal or state disaster area:

- Applicants who reside in the city of Long Beach who are displaced by government action through no fault of their own.
- Applicants who reside in affordable housing developments built or purchased with the assistance of the City of Long Beach, Redevelopment Agency or Housing Authority bonds, who are displaced when affordability conditions attached to the bonds are lifted prior to the original termination date.
- Applicants residing in a multi-family rental housing project in Long Beach covered by a project-based HCV HAP Contract when HUD sells, forecloses, refinances, or demolishes the project.

**4. Non-Elderly Disabled Preference.**

The Non-Elderly Persons with Disabilities (NED) program provides Housing Choice Vouchers for non-elderly disabled applicants.

**5. Live/Work Preference.**

- The head of household or spouse live, work or have been hired to work in the city of Long Beach. HACLB's residency preference will not have the purpose or effect of delaying or otherwise denying admission to the HCV program based on the race, color, religion, national origin, sex/gender, disability or age of any member.
- HACLB will verify that the applicant lives within the jurisdiction through review of a current lease, utility bill, letters from housing



providers, vehicle registration, business and household mail or other original documents.

- HACLB will verify that the qualifying individual works within HACLB's jurisdiction through review of paystubs, letters from the employer or other credible documentation.
- HACLB will verify that the qualifying individual is hired to work within HACLB's jurisdiction through review of a job-offer letter.

**6. Veterans Preference.**

The head of household, spouse or co-head is a veteran or a surviving spouse of a veteran of the U.S. Military Armed Forces who was discharged or released under conditions other than dishonorable.

**7. Elderly or Disabled Preference.**

The head of household, spouse or co-head must be 62 years of age or older; or a person with disabilities, as defined by the U.S. Department of Housing and Urban Development (HUD).

### **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 the PHA'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 number 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)].

#### **PHA Policy**

The PHA 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.

### **Order of Selection**

The PHA 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 a PHA 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)].

#### **PHA Policy**

Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the PHA's hierarchy of preferences, if applicable. 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 the PHA. Documentation will be maintained by the PHA as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the PHA does not have to ask higher placed families each time targeted selections are made.

#### **4-III.D. NOTIFICATION OF SELECTION**

When a family has been selected from the waiting list, the PHA must notify the family [24 CFR 982.554(a)].

##### PHA Policy

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

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview

- Who is required to attend the interview

- All documents that must be provided at the interview, including information about what constitutes acceptable documentation

If a notification letter is returned to the PHA with no forwarding address, the family will be removed from the waiting list. A notice of denial (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address.

#### **4-III.E. THE APPLICATION INTERVIEW**

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination through a face-to-face interview with a PHA 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.

##### PHA Policy

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

The head of household is required to attend the interview. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to the PHA.

The head of household or spouse/cohead must provide acceptable documentation of legal identity. (Chapter 7 provides a discussion of proper documentation of legal identity.) If the family representative does not provide the required documentation at the time of the interview, they will be required to provide it within 10 business days.

Pending disclosure and documentation of social security numbers, the PHA will allow the family to retain its place on the waiting list for *10 business days*. If not all household members have disclosed their SSNs at the next time the PHA is issuing vouchers, the PHA will issue a voucher to the next eligible applicant family on the waiting list.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, and must complete required forms, provide required signatures, and submit required documentation. If any materials are missing, the PHA will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 10 business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

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

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

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

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

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information, the PHA 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.

##### **PHA Policy**

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

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

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

## **Chapter 5**

### **BRIEFINGS AND VOUCHER ISSUANCE**

#### **INTRODUCTION**

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the Housing Choice Voucher (HCV) program, the PHA 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 information the family needs to know in order to lease a unit under the program. Once the family is fully informed of the program's requirements, the PHA issues the family a voucher. The voucher includes the unit size for which the family qualifies based on the PHA'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 PHA policies related to these topics in two parts:

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

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

#### **PART I: BRIEFINGS AND FAMILY OBLIGATIONS**

##### **5-I.A. OVERVIEW**

HUD regulations require the PHA to conduct mandatory briefings for applicant families who qualify for a voucher. The briefing provides a broad description of owner and family responsibilities, explains the PHA'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.

#### PHA Policy

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

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.

### **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.

#### PHA 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, all adult family members are required to attend the briefing. If any adult member is unable to attend, the PHA may waive this requirement as long as the head, spouse or co-head attends the briefing.

Families that attend group briefings and still have the need for 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*

### PHA Policy

Applicants who fail to attend a scheduled in-person briefing will automatically be scheduled for another briefing. 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 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.

### PHA Policy

The PHA has the sole discretion to require that briefings be conducted remotely in case of local, state, or national physical distancing orders, and 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 their 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.

### **PHA 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 videoconferencing 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 the PHA's jurisdiction;
- An explanation of how portability works. The PHA may not discourage the family from choosing to live anywhere in the PHA jurisdiction or outside the PHA jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;
- The PHA 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;
- The advantages of areas that do not have a high concentration of low-income families; 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.

In briefing a family that includes a person with disabilities, PHA must also take steps to ensure effective communication.

**Briefing Packet [24 CFR 982.301(b); New HCV GB, *Housing Search and Leasing*, p. 7]**

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

- The term of the voucher, voucher suspensions, and the PHA's policies on any extensions of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the PHA 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 the PHA policy on providing information about families to prospective owners.
- The PHA 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. (e.g., HUD brochure entitled, "A Good Place to Live").
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form, including information on how to complete the form and file a fair housing complaint.
- A list of landlords known to the PHA 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. PHAs 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 the PHA.
- The family obligations under the program, including any obligations of a welfare-to-work family, and any obligations of other special programs if the family is participating in one of those programs.
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.
- PHA informal hearing procedures including when the PHA 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.
- The HUD pamphlet on lead-based paint entitled, “Protect Your Family from Lead in Your Home.”

If the PHA 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 PHAs with names, addresses, and telephone numbers

### **Additional Items to Be Included in the Briefing Packet**

In addition to items required by the regulations, PHAs may wish to include supplemental materials to help explain the program to both participants and owners [HCV GB p. 8-7, Notice PIH 2017-12].

#### PHA Policy

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

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

The form HUD-5380 domestic violence certification form and 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

“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

## **5-I.C. FAMILY OBLIGATIONS**

Obligations of the family are described in the housing choice voucher (HCV) regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The PHA 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**

#### PHA Policy

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

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

### **Family Obligations [24 CFR 982.551]**

The family obligations of the voucher are listed as follows:

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

#### PHA Policy

Damages beyond ordinary wear and tear will be considered to be damages which could be assessed against the security deposit under state law or in court practice.

- The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.

- The family must not commit any serious or repeated violation of the lease.

#### PHA Policy

The PHA 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 will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim [24 CFR 5.2005(c)(1)].

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

#### PHA Policy

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

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

#### PHA Policy

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

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.

- If the PHA has given approval, a foster child or a live-in aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when PHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (sections I.K and I.M), and Chapter 11 (section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

#### PHA Policy

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

- The family must supply any information requested by the PHA to verify that the family is living in the unit or information related to family absence from the unit.

- The family must promptly notify the PHA when the family is absent from the unit.

#### PHA Policy

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

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



## **PART II: SUBSIDY STANDARDS AND VOUCHER ISSUANCE**

## **5-II.A. OVERVIEW**

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

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

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

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

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

### PHA Policy

The PHA will assign one bedroom for each two persons within the household, except in the following circumstances:

Live-in aides will be allocated a separate bedroom.

Single person families will be allocated one bedroom.

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

<b>Voucher Size</b>	<b>Persons in Household</b>
	<b>(Minimum – Maximum)</b>
1 Bedroom	1-2
2 Bedrooms	2-4
3 Bedrooms	3-6
4 Bedrooms	4-8
5 Bedrooms	6-10

### **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)].

#### **PHA Policy**

HACLB will only consider granting an exception for Reasonable Accommodations. 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

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

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

## **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, the PHA issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

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

A voucher can be issued to an applicant family only after the PHA 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].

### **PHA Policy**

Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

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

### **PHA Policy**

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

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

## **Voucher Rescissions**

### **PHA Policy**

If, due to budgetary constraints, the PHA must rescind vouchers that have already been issued to families, the PHA will do so according to the instructions under each of the categories below. The PHA 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 1: Vouchers for which a Request for Tenancy Approval (RTA) and proposed lease have not been submitted to the PHA.

Vouchers will be rescinded in order of the date and time they were issued, starting with the most recently issued vouchers.

Category 2: Vouchers for which a Request for Tenancy Approval and proposed lease have been submitted to the PHA.

Vouchers will be rescinded in order of the date and time the RTA was submitted to the PHA, 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 PHA 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)].

#### PHA Policy

The initial voucher term will be 120 calendar days.

The family must submit a Request for Tenancy Approval and proposed lease within the 120-day period unless an extension has been granted by the PHA.

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

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

PHAs must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

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

#### PHA Policy

The PHA will automatically approve one 30-day extension upon written request from the family.

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

- It is necessary as a reasonable accommodation for a person with disabilities.

- It is necessary due to reasons beyond the family's control, as determined by the PHA. Following is a list of extenuating circumstances that the PHA may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:

- Serious illness or death in the family

- Other family emergency

- Obstacles due to employment

- Whether the family has already submitted requests for tenancy approval that were not approved by the PHA

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

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 10 business days of the date the request is received and will immediately provide the family written notice of its decision.

### **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, the PHA 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].

#### **PHA Policy**

If an applicant family's voucher term or extension expires before the PHA has approved a tenancy, the PHA will require the family to reapply for assistance.

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

## Chapter 6

### INCOME AND SUBSIDY DETERMINATIONS

[24 CFR Part 5, Subparts E and F; 24 CFR 982]

#### INTRODUCTION

An applicant's income determines eligibility for assistance, is also used to calculate the family's share of rent and the subsidy paid by the Public Housing Authority (PHA). As a PHA, Housing Authority of the City of Long Beach (HACLB) uses the policies and methods described in this chapter to ensure that only eligible families receive assistance and that a family pays the correct amount of tenant rent Housing Choice Voucher (HCV) program regulations. This chapter describes U.S. Department of Housing and Urban Development (HUD) regulations and HACLB policies related to these topics in three parts as follows:

- Part I: Annual Income. HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and HACLB policies for calculating annual income are found in Part I.
- Part II: Adjusted Income. Once annual income is established HUD regulations require HACLB to subtract from annual income any of five mandatory deductions for which a family qualifies. These requirements and HACLB policies for calculating adjusted income are found in Part II.
- Part III: Calculating Family Share and the Housing Assistance Payment (HAP). This part describes the statutory formula for calculating Total Tenant Payment (TTP), the use of Utility Allowances and the methodology for determining the family share and Housing Assistance Payment.

## PART I: ANNUAL INCOME

### 6-I.A. OVERVIEW

The regulatory definition of *annual income* is located at: [24 CFR §5.609](#).

[24 CFR §5.609](#) - Annual income.

- (a) Annual income means all amounts, monetary or not, which:
- (1) Go to or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
  - (2) Are anticipated to be received from a source outside the family during the 12- month period following admission or annual reexamination effective date; and
  - (3) Which are not specifically excluded in paragraph. [[24 CFR §5.609\(c\)](#)]
  - (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

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

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

Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately. [[24 CFR §5.609\(b\) and \(c\)](#)]

In this Plan, the discussions of income inclusions and exclusions are integrated by topic, e.g., all policies affecting earned income are discussed together in section 6-I.D. Verification requirements for annual income are discussed in Chapter 7.

## 6-I.B. HOUSEHOLD COMPOSITION AND INCOME

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

<b>Summary of Included and Excluded Income by Person</b>	
Live-in aides	Income from all sources is excluded. [ <a href="#">24 CFR §5.609(c)(5)</a> ]
Foster child or foster adult	Income from all sources is excluded. [ <a href="#">24 CFR §5.609(c)(2)</a> ]
head of household, Spouse/Co-head or Other Adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded. All other income sources, except those specifically excluded by the regulations, are included. [ <a href="#">24 CFR §5.609(c)(1)</a> ]
Full-time students 18 years of age or older (not head of household, spouse or co-head)	Employment income above \$480/year is excluded. All other income sources, except those specifically excluded by the regulations, are included. [ <a href="#">24 CFR §5.609(c)(11)</a> ]

**Temporarily Absent Family Members** [[HCV Guidebook, Chapter 5, page 5-18](#)] The income of family members approved to live in the housing unit will be counted, even if the family member is temporarily absent from the housing unit.

PHA Policy

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

**Absent Students**

PHA 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 HACLB indicating that the student has established a separate household, or the family declares that the student has established a separate household.

**Absences Due to Placement in Foster Care**

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

PHA Policy

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

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

PHA Policy

An employed head of household, spouse or cohead absent from the housing 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 Guidebook, Chapter 5, page 5-13](#)]

#### PHA Policy

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

However, if a family member is confined for more than 180 calendar days, they will be considered permanently 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.

### **Joint Custody of Dependents**

#### PHA 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 51 percent or more of the time.

When more than one applicant or participant claims the same dependent as a family member, the family with primary custody at the time of admission or reexamination will be able to claim the dependent. If there is a dispute about which family should claim them, HACLB will make the determination based on available documents such as court orders, school records, or an IRS return showing which family claimed the child for income tax purposes or school records.

## **Caretakers for a Child**

### PHA Policy

The approval of a caretaker is at the owner and HACLB's discretion and subject to the owners and HACLB's screening criteria.



## **6-I.C. ANTICIPATING ANNUAL INCOME [24 CFR §5.609(a)(2)]**

PHAs are required to count all income “anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date”. Policies related to anticipating annual income are provided below.

### **Basis of Annual Income Projection [24 CFR §5.609(d)]**

PHAs generally use current circumstances to determine anticipated income for the upcoming 12-month period. HUD authorizes PHAs to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected;
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income);
- HACLB believes that past income is the best available indicator of expected future income.

PHAs are required to use HUD’s Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information and to reduce administrative subsidy payment errors, in accordance with HUD administrative guidance. [24 CFR §5.233(a)(2)]

HUD allows PHAs to use paystubs to project income once EIV data is received in such cases when the family does not dispute the EIV employer data and when PHAs do not determine it is necessary to obtain additional third-party data.

#### **PHA Policy**

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

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

If EIV or other UIV data is not available,

If the family disputes the accuracy of the EIV employer data, and/or

If the PHA determines additional information is needed.

In such cases, the PHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the PHA annualized projected income. When the PHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

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

### ***Known Changes in Income***

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

**Example:** An employer reports that a full-time employee who has been receiving \$8/hour will begin to receive \$8.25/hour in the eighth week after the effective date of the reexamination. In such a case the PHA 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 the PHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if the PHA's policy on reexaminations does not require interim reexaminations for other types of changes.

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

### **Projecting Income**

In HUD's EIV webcast of January 2008, HUD made it clear that PHAs are not to use EIV quarterly wages to project annual income.

## **6-I.D. EARNED INCOME**

### **Types of Earned Income Included in Annual Income**

#### ***Wages and Related Compensation*** [\[24 CFR §5.609\(b\)\(1\)\]](#)

The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation for personal services is included in annual income.

##### PHA Policy

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

#### ***Some Types of Military Pay***

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

### **Types of Earned Income Not Counted in Annual Income**

#### ***Temporary, Nonrecurring or Sporadic Income*** [\[24 CFR §5.609\(c\)\(9\)\]](#)

This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than 180 days per year and not culminating in permanent employment. [\[Notice PIH 2017-05\]](#)

##### PHA Policy

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

#### ***Children's Earnings***

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income. [\[24 CFR §5.609\(c\)\(1\)\]](#)

***Certain Earned Income of Full-Time Students*** [\[24 CFR §5.609\(c\)\(11\)\]](#) Earnings in excess of \$480 for each full-time student 18 years old or older (except for the head of household, spouse or co-head) are not counted. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program. [\[HCV Guidebook, Chapter 5, page 5-29\]](#)

***Income of a Live-in Aide*** [[24 CFR §5.403](#) and [24 CFR §5.609\(c\)\(5\)](#)] Income earned by a live-in aide is not included in annual income.

***Income Earned under Certain Federal Programs*** [[24 CFR §5.609\(c\)\(17\)](#)] Income from some federal programs is specifically excluded from consideration as income including:

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

***Resident Service Stipend*** [24 CFR §5.600(c)(8)(iv)]

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

### ***State and Local Employment Training Programs***

Incremental earnings and benefits to any family member resulting from participation in a qualified state or local employment training program, 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 of participation in the training program. [[\(24 CFR §5.609\(c\)\(8\)\(v\)\)](#) and [HCV Guidebook, Chapter 5, page 5-20](#)]

#### **PHA Policy**

HACLB 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].

HACLB 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 1998-2, pages 3–4].

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

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

### ***HUD-Funded Training Programs***

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

#### **PHA Policy**

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

### ***Earned Income Tax Credit***

Earned Income Tax Credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. §32(j)), are excluded from annual income. [[24 CFR §5.609\(c\)\(17\)](#)]

### ***Earned Income Disallowance (EID)***

The Earned Income Disallowance for persons with disabilities is discussed in section 6-I.E below.

## **6-I.E. EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES**

[24 CFR §5.617: Exhibit 6-4]

The Earned Income Disallowance (EID) encourages persons with disabilities to enter the work force by not including the full value of increases in earned income for a specified period. Eligibility criteria and limitations on EID are summarized below.

### **Eligibility**

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

- Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. *Previously unemployed* is annual income that did not exceed the minimum wage applicable to the community multiplied by 500 hours. The applicable minimum wage is the federal minimum wage, unless there is a higher state or local minimum wage.
- Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train or facilitate the economic independence of HUD-assisted families or to provide work to such families. [[24 CFR §5.603\(b\)](#)]
- New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy families (TANF), or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies or transportation assistance, the total amount received over the six-month period must be at least \$500.

## Calculation of the Disallowance

Calculation of the Earned Income Disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with their "prior income." The family member's prior or prequalifying, income remains constant throughout the period that they are receiving the EID.

### PHA Policy

HACLB defines *prior income or prequalifying income*, as the family member's last certified income prior to qualifying for the EID.

## Timeframe for the Disallowance

The time period during which a family member is eligible to receive the benefit of the earned income disregard is 24 consecutive months. The final rule provides:

- Once a family member is determined to be eligible for the EID, the 24-calendar month period starts;
- If the family member discontinues the employment that initially qualified the family for the EID, the 24-calendar month period continues;
- During the 24-month period, EID benefits are recalculated based on changes to family member income and employment (no change from current practice);
- During the first 12-month period, PHAs must exclude all increased income resulting from the qualifying employment of the family member. After the first 12-month period, PHAs must exclude at least 50 percent of any increase in income of such family member as a result of employment over the member's income before the qualifying event (i.e., the family member's baseline income);
- The EID benefit is limited to a lifetime 24-month period for the qualifying family member;
- At the end of the 24 months, the EID ends regardless of how many months were "used."

## 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.

### PHA 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.



### PHA 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***

EID has a 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. The one-time eligibility for the EID applies even if the eligible individual begins to receive assistance from another housing agency, if the individual moves between public housing and Section 8 assistance or if there are breaks in assistance.

### PHA Policy

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

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

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

### **Business Expenses**

Net income is “gross income less business expense”. [[HCV GB, Chapter 5, page 5-19](#)]

### PHA Policy

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

### **Business Expansion**

HUD regulations do not permit PHAs to deduct expenses for business expansion.

### PHA Policy

*Business expansion* is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate a 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 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 PHAs to deduct from gross income the amortization of capital indebtedness.

#### PHA Policy

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

### **Negative Business Income**

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

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

HUD regulations require PHAs 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.

#### PHA 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, HACLB will not count as income any withdrawals from the business up to the amount of this loan until the loan is repaid. Investments do not include the value of labor contributed to the business without compensation.

### **Co-Owned Businesses**

#### PHA Policy

If a business is co-owned with someone outside of the family, the family must document their share of the business it owns. If the family's share income is lower than its share of ownership, the family must document the reasons for the difference.

## **6-I.G. ASSETS** [[24 CFR §5.609\(b\)\(3\)](#) and [24 CFR §5.603\(b\)](#)]

### **Overview**

There is no asset limitation for participation in the HCV program. However, HUD requires that PHAs include in annual income the “interest, dividends and other net income of any kind from real or personal property”. This section discusses how the income from various types of assets is determined.

For most types of assets, PHAs must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

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

Exhibit 6-1 provides the regulatory requirements for calculating income from assets and Exhibit 6-3 provides the regulatory definition of *net family assets*. This section begins with a discussion of general policies related to assets and then provides HUD rules and HACLB policies related to each type of asset.

### **General Policies**

#### ***Income from Assets***

PHAs generally use current circumstances to determine both the value of an asset and the anticipated income from an asset. As is true for all sources of income, HUD authorizes HACLB to use other than current circumstances to anticipate income when:

- (1) an imminent change in circumstances is expected;
- (2) it is not feasible to anticipate a level of income over 12 months; or
- (3) HACLB 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 and the property is currently vacant, PHAs can take into consideration past rental income along with the prospects of obtaining a new tenant.

#### **PHA Policy**

Anytime 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.

### **Valuing Assets** [[HCV Guidebook, Chapter 5, page 5-28](#)]

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

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

#### **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.

### ***Lump-Sum Receipts***

Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if the funds are retained in a form recognizable as an asset,

e.g., deposited in a savings or checking account. [[RHIIP FAQs #31](#)]

For a discussion of lump-sum payments that represent the delayed start of a periodic payment, most of which are counted as income, see sections 6-I.H and 6-I.I.

### ***Imputing Income from Assets*** [[24 CFR §5.609\(b\)\(3\)](#)]

When net family assets are \$5,000 or less, HACLB will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of \$5,000, HACLB will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income. Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by the PHA.

- Note: The HUD field office no longer provides an interest rate for imputed asset income. The “safe harbor” is now for the PHA to establish a passbook rate within 0.75 percent of a national average.
- The PHA must review its passbook rate annually to ensure that it remains within 0.75 percent of the national average.

#### **PHA Policy**

The PHA initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

The PHA will review the passbook rate annually. The rate will not be adjusted unless the current PHA rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.

The effective date of changes to the passbook rate will be determined at the time of the review.

### ***Determining Actual Anticipated Income from Assets***

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

### ***Withdrawal of Cash or Liquidation of Investments***

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

### ***Jointly Owned Assets*** [\[24 CFR §5.609\(a\)\(4\)\]](#)

HUD regulation specifies that annual income includes “amounts derived (during the 12-month period) from assets to which any member of the family has access.”

#### **PHA Policy**

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

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

### ***Assets Disposed of for Less than Fair Market Value*** [\[24 CFR §5.603\(b\)\]](#)

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

***Minimum Threshold*** [[HCV Guidebook, Chapter 5, page 5-27](#)]

The *HCV Guidebook* permits PHAs to set a threshold below which assets disposed of for less than fair market value will not be counted.

***PHA Policy***

HACLB will not include the value of assets disposed of for less than fair market value, unless the cumulative value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than \$5,000.

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual reexaminations, the family may request an interim reexamination to eliminate consideration of the asset(s).

Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

***Separation or Divorce***

The regulation also specifies that assets are not considered disposed of for less than fair market value if the asset is 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.

***Family Declaration***

***PHA Policy***

Families must sign a declaration form at initial certification and each annual reexamination 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. HACLB may verify the value of the assets disposed of if other information available to HACLB does not appear to agree with the information reported by the family.

## **Types of Assets**

### ***Checking and Savings Accounts***

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

#### PHA Policy

In determining the value of a checking and savings accounts, HACLB will use the current balance.

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

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

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

#### PHA Policy

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

How anticipated income from an investment account will be calculated depends on whether the rate of return is known.

For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings).

When the anticipated rate of return is not known (e.g., stocks), HACLB will calculate asset income based on the earnings for the most recent reporting period.

***Equity in Real Property or Other Capital Investments*** [[HCV Guidebook, Chapter 5, page 5-25](#)]

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

**PHA Policy**

In determining equity, HACLB will determine market value by utilizing reputable online resources. HACLB will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, HACLB will use the basic loan balance information to deduct from the market value in the equity calculation.

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

- Equity accounts in HUD Homeownership programs. [[24 CFR §5.603\(b\)](#)]
- The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home. [[24 CFR §5.603\(b\)](#) and [Notice PIH 2012-03](#)]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives.
- Equity in real property when a family member's main occupation is real estate. This real estate is considered a business asset and income related to this asset will be calculated, as described in section 6-I.F.
- Interests in Indian Trust lands. [[24 CFR §5.603\(b\)](#)]
- Real property and capital assets that are part of an active business or farming operation. [[HCV Guidebook, Chapter 5, page 5-25](#)]

PHAs must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value minus the balance of the loan (mortgage) minus the expenses to convert to cash. [[Notice PIH 2012-03](#)]

**PHA Policy**

For the purposes of calculating expenses to convert to cash for real property, HACLB will use ten percent of the market value of the home.

A family may have real property as an asset in two ways: (1) owning the property itself and (2) holding a mortgage or deed of trust on the property. In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.



In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family is counted as anticipated asset income.

#### PHA Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless HACLB determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

#### ***Trusts***

A *trust* is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

#### ***Revocable Trusts*** [[HCV Guidebook, Chapter 5, page 5-25](#)]

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

#### ***Nonrevocable Trusts***

In cases when a trust is not revocable by or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate. [[24 CFR §5.603\(b\)](#)] (Periodic payments are covered in section 6-I.H. Lump-sum receipts are discussed earlier in this section.)

#### ***Retirement Accounts*** [[HCV Guidebook, Chapter 5, page 5-26](#)]

##### ***Company Retirement/Pension Accounts***

In order to correctly include or exclude as an asset amounts in a retirement or pension account, PHAs must know whether the money is accessible before retirement. While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate, except to the extent that it represents funds invested in the account by the family member. The balance in the account is an asset only if it remains accessible to the family member. (for more on periodic payments, see section 6-I.H)

##### ***IRA, Keogh and Similar Retirement Savings Accounts*** [[HCV Guidebook, Chapter 5, page 5-25](#)]

IRA, Keogh and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty.

***Personal Property*** [[HCV Guidebook, Chapter 5, page 5-25](#)]

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset.

***PHA Policy***

In determining the value of personal property held as an investment, HACLB will use the family's estimate of the value. HACLB may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by \$50 or more. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.

Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

Necessary items of personal property are not considered assets. [[24 CFR §5.603\(b\)](#)] ***PHA Policy***

Necessary personal property consists of only those items not held as an investment and may include clothing, furniture, household furnishings, jewelry and vehicles, including those specially equipped for persons with disabilities.

***Life Insurance***

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. [[HCV Guidebook, Chapter 5, page 5-25](#)]

The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated dividends or interest is counted as income whether or not it is received.

## 6-I.H. PERIODIC PAYMENTS

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

### **Periodic Payments Included in Annual Income** [24 CFR §5.609(b)(4) and (b)(3)]

- Periodic payments from sources such as social security, unemployment, welfare assistance, annuities, insurance policies, retirement funds and pensions. However, periodic payments from retirement, annuities and similar forms of investments are counted only after the payments exceed the amount contributed by the family.
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum. [[24 CFR §5.609\(b\)\(4\)](#) and [HCV Guidebook, Chapter 5, page 5-14](#)]

### **Lump-Sum Payments for the Delayed Start of a Periodic Payment**

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. [[24 CFR §5.609\(b\)\(4\)](#)]

Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income. [FR Notice 11/24/08]

#### PHA Policy

When a delayed-start payment is received and reported during the period in which HACLB is processing an annual reexamination, HACLB will adjust the family share and HACLB subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with HACLB.

### **Treatment of Overpayment Deductions from Social Security Benefits**

PHAs must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, PHAs must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount. [[Notice PIH 2018-24](#)]

## Periodic Payments **Excluded** from Annual Income

- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone). [[24 CFR §5.609\(c\)\(2\)](#)]
- Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income. [[Notice PIH 2012-01](#)]

### PHA Policy

HACLB will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency. [[HCV GB page 5-18](#)]

- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home. [[24 CFR §5.609\(c\)\(16\)](#)]
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. §1626(c)). [[24 CFR §5.609\(c\)\(17\)](#)]
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. §9858q). [[24 CFR §5.609\(c\)\(17\)](#)]
- Earned Income Tax Credit (EITC) refund payments. (26 U.S.C. §32(j)) [[24 CFR §5.609\(c\)\(17\)](#)] *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.
- Lump-sums received as a result of delays in processing Social Security and SSI payments (see section 6-I.J). [[24 CFR §5.609\(b\)\(4\)](#)]
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA). [FR Notice 11/24/08]

#### **6-I.I. PAYMENTS IN LIEU OF EARNINGS** [\[24 CFR §5.609\(b\)\(5\)\]](#)

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay, are counted as income, if the payments are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment.

If payments in lieu of earnings are received in a one-time lump sum, e.g., as a settlement, the payment is treated as lump-sum receipts. [\[24 CFR §5.609\(c\)\(3\)\]](#) (see the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G)

## **6-I.J. WELFARE ASSISTANCE**

### **Overview** [24 CFR §5.603(b)]

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy families (TANF) and any payments based on need that are made under programs funded by federal, state or local governments

**Sanctions Resulting in the Reduction of Welfare Benefits** [24 CFR §5.615] PHAs must make a special calculation of annual income when a welfare agency imposes certain sanctions on families. The full text of the regulation is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family received 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, PHAs must include in annual income “imputed” welfare income. PHAs must request that the welfare agency report when the benefits of an HCV participant family are reduced. The imputed income is the amount the family would have received if the family had not been sanctioned.

This requirement does not apply to reductions in welfare benefits: (1) at the expiration of the lifetime or other time limit on the payment of welfare benefits, (2) if a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements or (3) because a family member has not complied with other welfare agency requirements. [24 CFR §5.615(b)(2)]

### ***Offsets*** [24 CFR §5.615(c)(4)]

The amount of imputed income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When additional income equals or exceeds imputed welfare income, the imputed income is reduced to zero.

## **6-I.K. PERIODIC AND DETERMINABLE ALLOWANCES [[24 CFR §5.609\(b\)\(7\)](#)]**

Annual income includes periodic and determinable allowances, such as alimony and child support payments and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

### **Alimony and Child Support**

PHAs must count alimony or child support amounts awarded as part of a divorce or separation agreement.

#### PHA Policy

HACLB will count court-awarded amounts for alimony and child support unless HACLB verifies that: (1) the payments are not being made and (2) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments. [[HCV GB page 5-23 and 5-47](#)]

Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

### **Regular Contributions or Gifts [[24 CFR §5.609](#)]**

PHAs must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family. Temporary, nonrecurring or sporadic income and gifts are not counted.

#### PHA Policy

Examples of regular contributions include: (1) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards and car payments), (2) cash or other liquid assets provided to any family member on a regular basis and (3) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by HACLB. For contributions that vary from month to month (e.g., utility payments), HACLB will include an average amount based upon past history.

**6-I.L. STUDENT FINANCIAL ASSISTANCE** [[24 CFR §5.609\(b\)\(9\)](#)], FR 4/10/06 and 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.

**Student Financial Assistance Included in Annual Income**

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>

The regulation requiring inclusion of certain student financial assistance applies only to students who satisfy all of the following conditions:

- The student is enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- The student is 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.
- The student is under 24 years of age **OR** has 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, HACLB will use the definitions of *dependent child*, *institution of higher education* and *parents* in section 3-II.E, along with the following definitions [FR 4/10/06, pages 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 in the 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]
  - 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 required by a large proportion of students, e.g., writing and science lab fees and fees specific to a 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.

**Student Financial Assistance Excluded from Income** [[24 CFR §5.609\(c\)\(6\)](#)] Any student financial assistance not subject to inclusion under [24 CFR §5.609\(b\)\(9\)](#) is fully excluded from annual income, whether it is paid directly to the student or to the educational institution. This includes any financial assistance received by:

- Students who reside with parents who are seeking or receive 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 (section 3-II.E);
- Students who receive financial assistance through a governmental program not authorized under the 1965 HEA.

## **6-I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME** [\[24 CFR §5.609\]](#)

Other exclusions that have not been discussed earlier in this chapter include:

- Reimbursement of medical expenses [24 CFR §5.609(c)(4)];
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and allow participation in a specific program [24 CFR §5.609(c)(8)(iii)];
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR §5.609(c)(8)(ii))];
- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR §5.609(c)(10)];
- Adoption assistance payments in excess of \$480 per adopted child [24 CFR §5.609(c)(12)];
- Refunds on property taxes paid on the dwelling unit [24 CFR §5.609(c)(15)];
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR §5.609(c)(16)];
- Amounts specifically excluded by any other federal statute [24 CFR §5.609(c)(17)] HUD publishes an updated list of these exclusions periodically. It includes:
  - (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. §2017 (b))
  - (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. §5044(g), 5058)
  - (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. §1626(c))
  - (d) Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. §459e)
  - (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. §8624(f))
  - (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (JTPA) (29 U.S.C. §1552(b)). Effective July 1, 2000, references to JTPA shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 (29 U.S.C. §2931))
  - (g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
  - (h) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians

from funds derived from interests held in such trust or restricted lands (25 U.S.C. §1407-1408)

- (i) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. §3056(f))
- (j) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.)
- (k) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. §1721)
- (l) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. §9858q)
- (m) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. §32(j))
- (n) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (o) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. §12637(d))
- (p) Any allowance paid under the provisions of 38 U.S.C. §1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. §1805)
- (q) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. §10602)
- (r) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. §2931)
- (s) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance



## PART II: ADJUSTED INCOME

### 6-II.A. INTRODUCTION

#### Overview

HUD regulations require PHAs to deduct from annual income mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

[24 CFR §5.611\(a\)](#) - Mandatory deductions. In determining adjusted income, the responsible entity [HACLB] must deduct the following amounts from annual income:

- (1) \$480 for each dependent;
- (2) \$400 for any Elderly family or Disabled family;
- (3) The sum of the following, to the extent the sum exceeds 3% of annual income:
  - (i) Unreimbursed medical expenses of any Elderly family or Disabled family;
  - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and
- (4) Any reasonable childcare expenses necessary to enable a member of the family to be employed or to further his or her education.

#### Anticipating Expenses

##### PHA Policy

Generally, HACLB will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year, (e.g., childcare during school and nonschool periods and cyclical medical expenses), HACLB will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, HACLB will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. The PHA may require the family to provide documentation of payments made in the preceding year.

**6-II.B. DEPENDENT DEDUCTION** [[24 CFR §5.611\(a\)\(1\)](#)]

A deduction of \$480 is taken for each dependent, defined as any family member other than the head of household, 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** [[24 CFR §5.403](#)]

A single deduction of \$400 is taken for any elderly or disabled family. [[24 CFR §5.611\(a\)\(2\)](#)]

An *Elderly Family* is a family whose head of household, spouse, co-head or sole member is at least 62 years of age or older. It may include two or more persons who are at least 62 years of age living together, or one or more persons 62 years of age who are living with one or more live-in aides.

A *Disabled Family* means a family whose head (including co-head), spouse, or sole member is a person with a disability. It may include two or more persons with disabilities living together, or one or more persons with disabilities living with one or more live-in aides.

## 6-II.D. MEDICAL EXPENSES DEDUCTION [\[24 CFR §5.611\(a\)\(3\)\(1\)\(i\)\]](#)

Unreimbursed medical expenses may be deducted in combination with any disability assistance expenses. This allowance is equal to the amount by which the cost of the care attendant or auxiliary apparatus exceeds three percent (3%) of gross annual income. However, the allowance may not exceed the earned income received by the adult family member who is able to work due to attendant care or auxiliary apparatus.

The medical expense deduction is permitted only for families in which the head of household, 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. [\[Notice PIH 2004-01 Verification Guidance, page 28\]](#)

### Definition of Medical Expenses [\[24 CFR §5.603\(b\)\]](#)

HUD regulations define *medical expenses* as “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.”

#### PHA Policy

The most current IRS Publication 502, *Medical and Dental Expenses*, will be used *as a reference to determine the costs that qualify as medical expenses and provides a chart that summarizes the expenses.*

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals	Psychiatric treatment
Surgery and medical procedures that are necessary, legal, non-cosmetic	Ambulance services and some costs of transportation related to medical expenses
Services of medical facilities	The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches and artificial teeth)
Hospitalization, long-term care and in-home nursing services	Cost and continuing care of necessary service animals
Prescription medicines and insulin, but <u>not</u> nonprescription medicines, even if recommended by a doctor	Medical insurance premiums or the cost of a health maintenance organization (HMO)
Improvements to housing directly related to medical needs (e.g., ramps for a wheelchair, handrails)	
Substance abuse treatment programs	

**Note:** This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent the expenses are not reimbursed by insurance or some other source.

## **Families That Qualify for Both Medical and Disability Assistance Expenses**

### PHA Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, HACLB will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.



**6-II.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION** [[24 CFR §5.603\(b\)](#) and [24 CFR §5.611\(a\)\(3\)\(ii\)](#)]

Reasonable expenses for attendant care and auxiliary apparatus for a Disabled family member may be deducted if the expenses:

- (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 medical expenses, exceed 3% 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 a disability assistance expense deduction if at least one member (may be the person with disabilities) is enabled to work.

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. The earned income used for this purpose is the amount verified before any Earned Income Disallowances or income exclusions are applied.

**PHA 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, HACLB 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 HACLB determines that disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members’ income.

### **Eligible Disability Expenses** [[HCV Guidebook, Chapter 5, page 5-30](#)]

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: “Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work”. HUD advises HACLB to further define and describe auxiliary apparatus. [[Notice PIH 2004-01 Verification Guidance, page 30](#)]

### ***Eligible Auxiliary Apparatus***

#### PHA Policy

Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost of service animals trained to give assistance to persons with disabilities, including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

### ***Eligible Attendant Care***

The family determines the type of attendant care that is appropriate for the person with disabilities.

#### PHA Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, HACLB 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*** [[24 CFR §5.603\(b\)](#)]

No disability assistance expenses may be deducted for payments to a member of an assisted family. However, expenses paid to a relative who is not a member of the assisted family may be deducted if the expenses 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.

PHA Policy

HACLB determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, HACLB will collect information from organizations that provide services and support to persons with disabilities. A family may present and HACLB will consider, the family's justification for costs that exceed typical costs in the area.

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

PHA Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, HACLB will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

## **6-II.F. CHILD CARE EXPENSE DEDUCTION**

HUD defines *child care expenses* at [24 CFR §5.603\(b\)](#) as “amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only when 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 childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

**Clarifying the Meaning of *Child* for This Deduction** [[Notice PIH 2004-01, page 26](#)] 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. However, childcare expenses for foster children that are living in the assisted family’s household, are included when determining the family’s childcare expenses. [[HCV Guidebook, Chapter 5, page 5-29](#)]

### **Qualifying for a Child Care Expense Deduction**

#### PHA 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, HACLB will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

### ***Seeking Work***

#### PHA Policy

If the child care expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member’s efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member’s job search efforts are not commensurate with the child care expense being allowed by the HACLB.

## ***Furthering Education***

### **PHA Policy**

If the childcare expense being claimed is to enable a family member to further their 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***

### **PHA 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 childcare 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** [[24 CFR §5.603\(b\)](#)] When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for child care – although the care must still be necessary and reasonable. When childcare enables a family member to work, the deduction is capped by “the employment income that is included in annual income”.

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, childcare 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 EID earns \$10,000 and only \$5,000 is included in annual income, childcare expenses are limited to \$5,000.

The PHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to work hours. [[HCV Guidebook, Chapter 5, page 5-30](#)]

### **PHA 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, HACLB 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** [[Notice PIH 2004-01, page 26](#)]

The type of care to be provided is determined by the assisted family. The PHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare.

### ***Allowable Child Care Activities***

#### PHA 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, the PHA 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***

Childcare 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 their education and (2) the family certifies and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

#### PHA Policy

Child care expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For child care that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

To establish the reasonableness of child care costs, the PHA 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 the PHA will consider, justification for costs that exceed typical costs in the area.

## **PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY**

### **6-III.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS**

#### **Total Tenant Payment (TTP) Formula** [[24 CFR §5.628](#)]

HUD regulations specify the formula for calculating the TTP for an assisted family. The TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (see Part II);
- 10 percent of the family's monthly gross income (see Part I);
- The welfare rent (in as-paid states only);
- A minimum rent between \$0 and \$50 that is established by the PHA.

The PHA has authority to suspend and exempt families from the Minimum Rent when a financial hardship exists, as defined in section 6-III.B. The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP; however, it may be greater than the TTP, depending on the rent charged for the housing unit the family selects.

#### **Welfare Rent** [[24 CFR §5.628](#)]

PHA Policy: Welfare rent does not apply in this locality.

#### **Minimum Rent** [[24 CFR §5.630](#)]

PHA Policy: HACLB's Minimum Rent is established at \$50.

#### **Family Share** [[24 CFR §982.305\(a\)\(5\)](#)] and [[24 CFR §5.508](#)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the PHA's applicable Payment Standard: (1) the family will pay more than the TTP; and (2) at initial occupancy HACLB 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.

**PHA Subsidy** [[24 CFR §982.505\(b\)](#)]

PHAs 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.

**Utility Reimbursement** [24 CFR §982.514(b)] [24 CFR 982.514](#)

When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits PHAs to pay the reimbursement to the family or directly to the utility provider.

PHA Policy

HACLB will make utility reimbursements to the family.



## **6-III.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT** [[24 CFR §5.630](#)]

### **Overview**

Financial hardship exemptions apply 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 HACLB.

PHA Policy

HACLB 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 request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

PHA Policy

HACLB 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.

<b>Example: Impact of Minimum Rent Exemption</b>			
Assume the PHA has established a minimum rent of \$50.			
<b>Family Share – No Hardship</b>		<b>Family Share – With Hardship</b>	
\$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.

HACLB will make hardship determinations 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**

HACLB will require the family to repay suspended amount within 30 calendar days of HACLB'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 PHAs to offer a reasonable Repayment Agreement. PHAs may also determine that circumstances have changed, and the hardship is now a long-term hardship.

#### **PHA Policy**

HACLB 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, HACLB 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 is 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-III.C. APPLYING PAYMENT STANDARDS** [\[24 CFR §982.505\]](#)

### **Overview**

The PHA's schedule of Payment Standards is used to calculate Housing Assistance Payments for HCV families. This section covers the application of the PHA's Payment Standards. The establishment and revision of the PHA's Payment Standard schedule are covered in Chapter 16.

*Payment Standard* is defined as “the maximum monthly assistance payment for a family assisted in the Voucher program (before deducting the Total Tenant Payment by the family)”. [\[24 CFR §982.4\(b\)\]](#)

The Payment Standard for a family is the lower of (1) the Payment Standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the PHA's Subsidy Standards [\[24 CFR §982.4\(b\)\]](#) or (2) the Payment Standard for the size of the dwelling unit rented by the family.

If the PHA 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, HACLB must use the appropriate Payment Standard for the exception area.

The PHA is required to pay a monthly Housing Assistance Payment (HAP) for a family that is the lower of (1) the Payment Standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP Contract for a family's unit, the owner lowers the rent, the PHA will recalculate the HAP using the lower of the initial Payment Standard or the gross rent for the housing unit. [HCV GB, page 7-8]

### **Changes in Payment Standards**

When the PHA revises the 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.

#### ***Decrease in Payment Standard***

If the amount on the Payment Standard schedule is decreased during the term of a HAP Contract, the lower Payment Standard generally will be used beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the Payment Standard. The PHA will determine the Payment Standard for the family as follows:

#### PHA Policy

**Step 1:** At the first regular reexamination following the decrease in the Payment Standard, the PHA will determine the Payment Standard for the family using the lower of the Payment Standard for the family unit size or the dwelling unit rented by the family.

**Step 2: The PHA will compare the payment standard from Step 1 to the payment standard last used to calculate the monthly housing assistance payment for the family. The payment standard used by the PHA at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. The PHA will advise the family that the application of the lower payment standard will be deferred until the second regular reexamination following the effective date of the decrease in the payment standard.**

**Step 3: At the second regular reexamination following the decrease in the payment standard, the lower payment standard will be used to calculate the monthly housing assistance payment for the family unless the PHA has subsequently increased the payment standard, in which case the payment standard will be determined in accordance with procedures for increases in payment standards.**

**The PHA will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.**

***Increases in Payment Standard*** [HCV GB, page 7-8]

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 assistance calculated using the higher Payment Standard until their next annual reexamination.

***Changes in Family Unit Size (Voucher 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 within the basic range.

## **6-III.D. APPLYING UTILITY ALLOWANCES** [[24 CFR §982.517](#)]

### **Overview**

The PHA's established Utility Allowance Schedule is used in determining family share and HAP subsidy. A family's Utility Allowance is determined by the lesser of the size of dwelling unit actually leased or the family unit size as determined under the PHA's subsidy standards. [[FR Notice 06/25/2014](#) and [Notice PIH 2016-05](#)]

A PHA-established Utility Allowance Schedule is used in determining family share and HAP subsidy. The PHA must use the appropriate Utility Allowance for the size of dwelling unit actually leased, rather than the Voucher unit size for which the family qualifies under the PHA's Subsidy Standards.

### **Reasonable Accommodation**

HCV program regulations require a PHA to approve a Utility Allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a Reasonable Accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed.

The family must request the higher allowance and provide HACLB with an explanation of the need for the Reasonable Accommodation and information about the amount of additional allowance required. [[HCV GB, Chapter 8, page 8-8](#)]

### **Utility Allowance Revisions** [[24 CFR §982.517\(d\)\(2\)](#)]

At reexamination, the PHA must use the current Utility Allowance Schedule

#### PHA Policy

Revised Utility Allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted [HCV GB, p. 18-9].

### **6-III.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR §5.520]**

HUD regulations prohibit assistance to ineligible family members. A *Mixed Family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a Mixed Family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the HAP subsidy for a family is calculated at \$500 and two of four family members are ineligible, the HAP subsidy would be reduced to \$250.





## EXHIBIT 6-1: ANNUAL INCOME INCLUSIONS

### 24 CFR 5.609

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

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
  - (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
  - (3) Which are not specifically excluded in paragraph (c) of this section.
- (4) Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

*(b) Annual income includes, but is not limited to:*

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;

- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b)(2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- (4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);
- (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);

(6) Welfare assistance payments.

(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31<sup>1</sup>; and

(B) Are not otherwise excluded under paragraph (c) of this section.

(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.

(7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;

(8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section)

(9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.

<p style="text-align: center;"><b>HHS DEFINITION OF "ASSISTANCE"</b></p>
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**45 CFR: GENERAL TEMPORARY  
ASSISTANCE FOR NEEDY FAMILIES**

**260.31 What does the term "assistance" mean?**

(a)(1) The term "assistance" includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).

(2) It includes such benefits even when they are:

(i) Provided in the form of payments by a TANF agency, or other agency on its behalf, to individual recipients; and

(ii) Conditioned on participation in work experience or community service (or any other work activity under 261.30 of this chapter).

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<sup>1</sup> Text of 45 CFR 260.31 follows.

(3) Except where excluded under paragraph (b) of this section, it also includes supportive services such as transportation and childcare provided to families who are not employed.

(b) [The definition of “assistance”] excludes: (1) Nonrecurrent, short-term benefits that:

(i) Are designed to deal with a specific crisis situation or episode of need;

(ii) Are not intended to meet recurrent or ongoing needs; and

(iii) Will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as childcare and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, childcare information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

## EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS

### 24 CFR 5.609

*(c) Annual income does not include the following:*

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
- (5) Income of a live-in aide, as defined in Sec. 5.403;
- (6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8) (i) Amounts received under training programs funded by HUD;
- (ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;

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

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

(9) Temporary, nonrecurring or sporadic income (including gifts);

(10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

(12) Adoption assistance payments in excess of \$480 per adopted child;

(13) [Reserved]

(14) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or prospective monthly amounts.

(15) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

(16) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

(17) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. [See Section 6-I.M. for a list of benefits that qualify for this exclusion.]

### EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

#### 24 CFR 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor.

In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

<b>EXHIBIT 6-4: EARNED INCOME DISALLOWANCE FOR PERSONS WITH DISABILITIES</b>
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**24 CFR 5.617 Self-sufficiency incentives for persons with disabilities–Disallowance of increase in annual income.**

*(a) Applicable programs.* The disallowance of earned income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 982).

*(b) Definitions.* The following definitions apply for purposes of this section.

*Baseline income.* The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person with disabilities (who is a member of a qualified family).

*Disallowance.* Exclusion from annual income.

*Previously unemployed* includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

*Qualified family.* A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.

(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance-- provided that the total amount over a six-month period is at least \$500.

*(c) Disallowance of increase in annual income—*

(1) *Initial twelve-month exclusion.* During the 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.

(2) *Second twelve-month exclusion and phase-in.* Upon expiration of the 12-month period defined in paragraph (c)(1) of this section and for the subsequent 12-month period, the responsible entity must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.

(3) *Maximum 2-year disallowance.* The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) of this section is limited to a lifetime 24-month period. The disallowance applies for a maximum of 12 months for disallowance under paragraph (c)(1) of this section and a maximum of 12 months for disallowance under paragraph (c)(2) of this section, during the 24-month period starting from the initial exclusion under paragraph (c)(1) of this section.

(4) *Effect of changes on currently participating families.* Families eligible for and participating in the disallowance of earned income under this section prior to *May 9, 2016* will continue to be governed by this section in effect as it existed immediately prior to that date (see 24 CFR parts 0 to 199, revised as of

April 1, 2016).

(d) *Inapplicability to admission.* The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable)



## EXHIBIT 6-5: 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 2018-18]**

## **INTRODUCTION**

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

HACLB will follow the verification guidance provided by the U.S. Department of Housing and Urban Development (HUD) in Notice PIH 2018-18 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary HACLB policies.

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

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

## **PART I: GENERAL VERIFICATION REQUIREMENTS**

### **7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR §982.516, §982.551 and §5.230] and Notice PIH 2023-27]**

#### **Consent Forms**

The family must supply any information that the Public Housing Agency (PHA) or HUD determines necessary in the administration of the program and must consent to verification of the 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); and 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.

#### PHA Policy

Family members turning 18 years of age between annual 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 annual or interim 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.

#### PHA Policy

The PHA 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 the PHA.

Within 10 business days of the date the family provides written notice, the PHA 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, the PHA will notify their local HUD office.

## **7-I.B. OVERVIEW OF VERIFICATION REQUIREMENTS**

### **HUD's Verification Hierarchy** [[Notice PIH 2018-18](#)]

HUD authorizes PHAs to use six methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires PHAs 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. Each of the verification methods is discussed in subsequent sections below.

#### PHA Policy

In order of priority, the forms of verification that HACLB will use are:

<b>Verification Technique</b>	<b>Ranking</b>
<b>Upfront Income Verification</b> – HUD's Enterprise Income Verification (EIV) system	<b>Highest</b> (Mandatory)
<b>Upfront Income Verification</b> – using non-HUD system	<b>Highest</b> (Optional) when EIV information not available (e.g., the Work Number)
<b>Written Third-Party Documentation</b>	<b>High</b> (Mandatory) to supplement EIV-reported income sources; or when EIV has no data; or for non-EIV reported income sources; or when family disputes the EIV report and is unable to provide acceptable documentation to support the dispute
<b>Written Third-Party Verification to Income Source</b>	<b>Medium-Low</b> (Mandatory if Level 3 not available or rejected by the PHA)
<b>Oral Third-Party Verification</b>	<b>Low</b> (Mandatory if written third-party verification is not available)

<b>Tenant Declaration</b>	<b>Low</b> (Use as a last resort when unable to obtain any type of third-party verification)
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## **Requirements for Acceptable Documents**

### PHA Policy

Any documents used for verification must be the original (not photocopies) and generally, must be dated within 60 calendar days of the PHA request. The documents must not be damaged, altered or in any way illegible. Printouts from webpages are considered original documents.

The PHA staff member who views the original document must make a photocopy. 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.

### **File Documentation**

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

### PHA Policy

HACLB will document, in the family file, the following:

- Reported family annual income;
- Value of assets;
- Expenses related to deductions from annual income; and
- Other factors influencing the adjusted income or income-based rent determination

When the PHA is unable to obtain third-party verification, the family's file will be documented with the reason that verification was not available. [[Notice PIH 2018-18](#)]

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

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

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family is granted an opportunity to contest any adverse findings through the Informal Review/Hearing process of the PHA. (see Chapter 6 for the policy on the use of UIV/EIV to project annual income)



### **HUD's Enterprise Income Verification (EIV) System (Mandatory)**

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits and SSI benefits for participant families. HUD requires the PHA to use the EIV system in its entirety. The following policies apply to the use of HUD's EIV system.

### **EIV Income and IVT Reports**

The data shown on income and income validation tool (IVT) reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

#### PHA Policy

HACLB will obtain income and IVT reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process. Income and IVT reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6-I.C.

Income reports may also be used to meet the regulatory requirement for third-party verification, as described above.

Income and IVT reports will be used in interim reexaminations to identify discrepancies between reported income and income shown in the EIV system and as necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

When HACLB 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.

### ***EIV Identity Verification***

The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name and date of birth. 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 2018-18](#)]

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

#### **PHA 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 PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the PHA determines that discrepancies exist due to PHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

### **Upfront Income Verification Using Non-HUD Systems (Optional)**

In addition to mandatory use of the EIV system, HUD encourages HACLB to utilize other upfront verification sources.

#### **PHA Policy**

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

- HUD's EIV system
- The Work Number
- Child support data
- TANF data
- CoreLogic real estate data
- Tax assessor data

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

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

### **Written Third-Party Verification** [\[Notice PIH 2018-18\]](#)

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

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

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

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

#### PHA Policy

Third-party documents provided by the family must be dated within 60 days of HACLB's request date. If HACLB determines that third-party documents provided by the family are not acceptable, HACLB will explain the reason to the family and request additional documentation.

As verification of earned income, HACLB will request the two most current and consecutive pay stubs, unless the information is insufficient to annualize income. 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.

### **Written Third-Party Verification Form**

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

Written third-party verification is mandatory when there is an unreported source of income or a substantial difference in reported income (\$2400 annually or more) and there is no UIV or tenant-provided documentation to support the income discrepancy. PHAs may mail, fax or e-mail third-party written verification forms to third parties.

#### PHA Policy

HACLB will send third-party verification forms directly to the third party.

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

### **Oral Third-Party Verification** [[Notice PIH 2018-18](#)]

For third-party oral verification, HACLB contact sources, identified by UIV techniques or by the family, by telephone or in person. Oral third-party verification is mandatory if neither form of written third-party verification is available. Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time, e.g., ten (10) business days.

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

#### PHA Policy

In collecting third-party oral verification, HACLB staff will record 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 a source responds verbally to a written verification, HACLB will accept the verbal response as oral verification, and will request that the verification be returned.

### **When Third-Party Verification is Not Required** [[Notice PIH 2018-18](#)]

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 TTP.

#### PHA Policy

If the family cannot provide original documents, HACLB will require that the client obtain electronic access to the information if possible.

The cost of postage and envelopes to obtain third-party verification of income, assets and expenses is not an unreasonable cost. [[Notice PIH 2004-01, Verification Guidance, page 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 Guidebook, Chapter 5, page 5-28](#)]

#### PHA Policy

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

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

#### PHA Policy

For families with net assets totaling \$5,000 or less, the PHA will accept the family's self-certification of the value of family assets and anticipated asset income when applicable. The family's declaration must show each asset and the amount of income expected from that asset. All family members 18 years of age and older must sign the family's declaration. The PHA will use third-party documentation for assets as part of the intake process, whenever a family member is added to verify the individual's assets, and every three years thereafter.

### **7-I.E. SELF-CERTIFICATION**

Self-certification or “tenant declaration,” is used as a last resort when HACLB is unable to obtain third-party verification.

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

#### **PHA Policy**

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

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

The self-certification must be made in a format acceptable to HACLB and must be signed by the family member whose information or status is being verified.



## **PART II: VERIFYING FAMILY INFORMATION**

### **7-II.A. VERIFICATION OF LEGAL IDENTITY**

#### PHA Policy

HACLB will require families to furnish verification of legal identity for each household member.

<b>Verification of Legal Identity for Adults</b>	<b>Verification of Legal Identity for Children</b>
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 (DD 214) 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 HACLB'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 HACLB and must be signed by the family member whose information or status is being verified.

Legal identity is 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 themselves to be a participant.



## **7-II.B. SOCIAL SECURITY NUMBERS** [[24 CFR §5.216](#) and [Notice PIH 2018-24](#)]

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 their 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.

Acceptable evidence of a social security number consists of:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the individual's name and SSN
- An original document issued by a federal, state or local government agency, which contains the name and SSN of the individual

PHAs may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document, if the original document is altered, mutilated or is not legible or if the document appears to be forged.

### PHA Policy

HACLB 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 HACLB within 90 calendar days.

When the participant requests to add a new household member who is at least 6 years of age or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination, in addition to the documentation required to verify it. PHAs 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 their control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

#### PHA Policy

HACLB will grant one additional 90-day extension if needed for reasons beyond the applicant'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, the PHA will terminate the individual's assistance.

Social security numbers must be verified only once during continuously assisted occupancy.

#### PHA Policy

HACLB 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," PHAs may, at their 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.

#### PHA Policy

Once an individual's status is classified as "verified" in HUD's EIV system, HACLB will not remove and destroy copies of documentation accepted as evidence of social security numbers.

### **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 social security retirement benefits is acceptable.

#### PHA Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, HACLB 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.

#### PHA 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. However, HACLB reserves the right to request reasonable documentation if a relationship is unclear or is misrepresented.

### **Marriage**

#### PHA Policy

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).

Certification by the head of household may be accepted when reasonable attempts have been made to provide requested documentation. HACLB reserves the right to require documentation when there is reasonable doubt regarding marital relationship.

### **Separation or Divorce**

#### PHA Policy

HACLB will require the family to document a 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.

Certification by the head of household may be accepted when other reasonable attempts

have been made to provide requested documentation.

The PHA reserves the right to require documentation when there is reasonable doubt regarding marital relationship.

### **Absence of Adult Member**

#### PHA Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if the PHA so requests.

The PHA will not remove the income of an adult member from the household share calculation until such evidence is provided.

### **Foster Children and Foster Adults**

#### PHA Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

HACLB may accept verbal confirmation of placement from a representative of the Department of Social Services on an interim basis, in order to address emergency placement. In such cases, staff will annotate the file with the representative's name who provided the information, indicating if temporary approval for the placement was granted.

Written confirmation of placement will be required within 60 calendar days of placement, unless HACLB grants an extension for the documentation.

## 7-II.E. VERIFICATION OF STUDENT STATUS

### General Requirements

#### PHA Policy

HACLB 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 headspouse or co-head.
- The family reports child care expenses to enable a family member to further their 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.

#### PHA Policy

In accordance with the verification hierarchy described in Section 7-1.B, HACLB 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 HACLB cannot verify at least one of these exemption criteria, the PHA will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, the PHA will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from their parents (see below).

## ***Independent Student***

### **PHA Policy**

HACLB will verify a student's independence from their 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 and verifying previous address information to determine whether a student has established a household separate from their parents for at least one year or reviewing and verifying documentation relevant to determining whether a student meets the U.S. Department of Education's definition of *independent student*;

Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent; and

Requesting and obtaining written certification directly from the student's parents identifying the amount of support that will be providing to the student, even if the amount of support is \$0.

## **7-II.F. DOCUMENTATION OF DISABILITY**

PHAs must verify the existence of a disability in order to allow certain income disallowances and deductions from income. However, PHAs are not permitted to inquire about the nature or extent of a person's disability. [[24 CFR §982.202\(c\)](#)]

PHAs may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If a PHA staff member receives a verification document that provides such information, the information will not be placed in the family's file. Under no circumstances will the PHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at [www.os.dhhs.gov](http://www.os.dhhs.gov).

The above cited regulation does not prohibit the following inquiries, provided inquiries are made of all applicants, without regard to whether a person is a person with disabilities: [[Notice PIH 2004-01, page 24](#)]

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability;
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability;
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance;
- Inquiring whether an applicant is convicted of the illegal manufacture or distribution of a controlled substance.

### **Family Members Receiving Social Security Administration (SSA) Disability Benefits**

Verification of the receipt of disability benefits from SSA is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions. [[Notice PIH 2004-01, page 23](#)]

#### PHA Policy

For family members claiming disability who receive disability benefits from the SSA, HACLB 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, HACLB will request a current (dated within the last 60 calendar days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), HACLB 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](http://www.ssa.gov). Applicants or participants are required to provide verification letters to HACLB.

### **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](#).

#### PHA Policy

For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. See the Eligibility chapter for the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

## **7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS** [[24 CFR §5.508](#)]

### **Overview**

Housing assistance is not available to persons who are not citizens, nationals or eligible immigrants. Prorated assistance is provided for "Mixed Families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility Chapter. This verifications Chapter discusses HUD and HACLB 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 is 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.

HACLB may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

#### **PHA Policy**

family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless HACLB 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 is granted, age and the date on which the family began receiving HUD-funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

### *PHA Verification* [[HCV Guidebook, Chapter 5, page 5-3 and 5-7](#)]

family members who claim to be eligible immigrants, HACLB must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

HACLB will follow all USCIS protocols for verification of eligible immigration status.

## **7-II.H. VERIFICATION OF PREFERENCE STATUS**

HACLB must verify any preferences claimed by applicants to the HCV program.

### PHA Policy

- 1. Coordinated Entry System/Continuum of Care Preference.** (100 points) Applicants who experienced homelessness, displacement or are at risk of homelessness or displacement. HCV funding for this preference is based on funding availability, as approved by HACLB.
  - a. Homeless applicants referred by the City of Long Beach Multi-Service Center, after completing intake, assessment and development of an individual service plan.
    - o HACLB verifies this preference through certified referrals made by Continuum of Care agencies.
  - b. Domestic Violence applicants, as certified by the Multi-Service Center as applicants with household member(s) who are homeless due to acts of domestic violence, dating violence, sexual assault, or stalking, as certified by the Multi-Service Center.
    - o HACLB verifies this preference through certified referrals made by the Long Beach Multi-Service Center.
  - c. Family Preservation program applicants referred by the Los Angeles County Department of Children and Family Services (DCFS) -provides support to strengthen and preserve families whose children are at risk of placement in out-of-home care.
    - o HACLB verifies this preference through certified referrals made by the DCFS office.
- 2. HOPWA Participant Expiration Preference.** (100 points)

HACLB will offer a preference to current HACLB HOPWA program participants in good standing with the program prior to the termination date of the family's HOPWA program participation, when applicable.

- o This preference is verified by using HACLB's HOPWA program records.

**3. Displaced Due to Governmental Action Preference.** (100 points) HACLB will offer a preference to applicants displaced by government action or displaced due to an event that resulted in the area in which they resided in being declared a federal or state disaster area:

- a. Families who reside in the city of Long Beach who are displaced by government action through no fault of their own.
- b. Families who reside in affordable housing developments built or purchased with the assistance of the City of Long Beach, Redevelopment Agency or Housing Authority bonds, who are displaced when affordability conditions attached to the bonds are lifted prior to the original termination date.
- c. Families residing in a multi-family rental housing project in Long Beach covered by a project-based HCV HAP Contract when HUD sells, forecloses, refinances, or demolishes the project.
- d. Displacement due to governmental action is verified by obtaining verification from the governmental agency that displaced the family.
- e. Displacement due to a declared disaster area is verified by HACLB confirming such a declared disaster and verifying that the applicant resided in the declared disaster area.

**4. Non-Elderly Disabled Preference.** (100 points)

The Non-Elderly Persons with Disabilities (NED) rental assistance program provides Housing Choice Vouchers for non-elderly disabled applicants.

- o HACLB will verify that the applicant's head of household, spouse or co-head is a person with disabilities and under 62 years of age.

**5. Residency Preference.** (50 points)

Applicants whose head of household, spouse or co-head lives, works or is hired to work within HACLB's jurisdiction.

- o HACLB will verify that the applicant lives within the jurisdiction through review of a current lease, utility bill, letters from housing providers, vehicle registration, business and household mail or other original documents reflecting that the family resides in a unit within HACLB's jurisdiction.
- o HACLB will verify that the qualifying individual works within HACLB's jurisdiction through review of paystubs, letters from the employer or other documentation that proves the individual works within HACLB's jurisdiction.
- o HACLB will verify that the qualifying individual is hired to work within HACLB's jurisdiction through review of a job-offer letter.

**6. Veterans Preference.** (15 points)

The head of household, spouse or co-head is a veteran or a surviving spouse of a veteran of the U.S. Military Armed Forces who was discharged or released under conditions

other than dishonorable.

- o HACLB will verify this preference with receipt of an original DD-214.

**7. Elderly or Disabled Preference.** (4 points)

The head of household, spouse or co-head must be 62 years of age or older; or a person with disabilities, as defined by the U.S. Department of Housing and Urban Development (HUD).

- o Disabled Preference – HACLB will verify that the head of household, spouse or co-head is a person with disabilities, as defined by the U.S. Department of Housing and Urban Development (HUD). (see Exhibit 3-1)
- o Elderly Preference – HACLB will verify that the head of household, spouse or co-head is 62 years of age or older with receipt of an official record of birth. If an official record of birth or evidence of social security retirement benefits cannot be provided, HACLB will require the family to submit other documents that support the reported age of the family member and to provide a self-certification. (reference: 7-II.C)

## **PART III: VERIFYING INCOME AND ASSETS**

Chapter 6, Part I of this Plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and income reported by the family must be verified. This part provides HACLB policies that supplement the general verification procedures specified in Part I of this chapter.

### **7-III.A. EARNED INCOME**

#### **Tips**

##### PHA Policy

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

#### **Wages**

##### PHA Policy

For wages other than tips, the family must provide originals of the two most current, consecutive pay stubs.

### **7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME**

#### PHA Policy

Business owners and self-employed persons will be required to provide:

- A statement of income and expenses must be submitted, and the business owner or self-employed person must certify to the statement's accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight- line depreciation rules.

The business owner/self-employed person will be required to submit the information requested and to certify to the accuracy of the information at all future reexaminations. At any reexamination HACLB 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, HACLB 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, HACLB will require the family to provide documentation of income and expenses for this period and use that information to project income.

## 7-III.C. PERIODIC PAYMENTS AND PAYMENTS IN LIEU OF EARNINGS

### Social Security/SSI Benefits

To ensure consistency in the determination of annual Social Security and SSI income, PHAs are required to use EIV-reported Social Security and SSI benefit amounts unless the tenant disputes the EIV-reported amount [Notice PIH 2018-24].

#### PHA Policy

To verify the SS/SSI benefits of applicants, the PHA will request a current (dated within the last 60 days) SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s), the PHA will [help](#) the applicant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter they will be required to provide it to the PHA.

To verify the SS/SSI benefits of participants, the PHA will obtain information about social security/SSI benefits through the HUD EIV System, and confirm with the participant(s) that the current listed benefit amount is correct. If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in HUD systems, the PHA will request a current SSA benefit verification letter from each family member that receives social security benefits. If the family is unable to provide the document(s) the PHA will [help](#) the participant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter they will be required to provide it to the PHA.

## 7-III.D. ALIMONY OR CHILD SUPPORT

#### PHA Policy

The way HACLB will seek verification for alimony and child support differs depending on whether the family declares receipt of regular payments. If the family declares receipt of ***regular payments***, verification will be sought in the following order:

- California Department of Child Support Services' UIV verification system, when available;
- Copy of receipts and/or payment stubs for the 60 calendar days prior to HACLB's 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 and of the likelihood of support payments for the future or that support payments are not being received.

If the family declares ***irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that all reasonable efforts have been taken to collect amounts due. This may include:

- A statement from any agency responsible for enforcing payment that shows the family has

requested enforcement and is cooperating with all enforcement efforts.

- If the family made independent collection efforts, a written statement from the attorney or other collection entity that assisted in these efforts.

**Note:** Families are not required to undertake independent enforcement action.

### **7-III.E. ASSETS AND INCOME FROM ASSETS** [[24 CFR §982.516\(a\)\(3\)](#)]

Under [HUD Notice PIH 2016-05](#), Streamlining Administrative Regulations for Programs Administered by Public Housing Agencies, PHAs may change their policy to obtain third-party verification of all family assets upon admitting a family to the HCV program and then again at least every 3 years thereafter.

During the intervening annual reexaminations, PHAs may accept a family's declaration for total net assets equal to or less than \$5,000, without taking additional steps to verify the accuracy of the declaration. If a family submits such a declaration, the PHA does not need to request supporting documentation, e.g., bank statements, to verify assets or the amount of income expected to be received from those assets. The family's declaration of total assets must show each asset and the amount of income expected from the asset. The total amount of the expected income from assets will be the family's "final asset income," and must be entered in field 6j of [Form HUD-50058](#).

#### PHA Policy

Following adoption of the assets provision described in [Notice PIH 2016-05](#) and [24 CFR §982.516\(a\)\(3\)](#), HACLB will obtain a family's declaration of assets equal to or less than \$5,000 at the next interim or annual reexamination. Third-party verifications will be obtained at least every 3 years for HCV participants and during the eligibility process for new admissions.

#### **Assets Disposed of for Less than Fair Market Value**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation. [[HCV Guidebook, Chapter 5, page 5-28](#)]

#### PHA Policy

The PHA will verify the value of assets disposed of only if:

- The PHA does not already have a reasonable estimation of the assets value from previously collected information, or
- The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA 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 \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

### **7-III.F. NET INCOME FROM RENTAL PROPERTY**

#### PHA Policy

The family must provide:

A current executed lease for the property that shows the rental amount or certification from the current tenant

A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

If schedule E was not prepared, the PHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

### **7-III.G. RETIREMENT ACCOUNTS**

#### PHA Policy

The PHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

The type of original document that will be accepted depends upon the family member's retirement status.

*Before* retirement, the PHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

*Upon* retirement, the PHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

*After* retirement, the PHA will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

### **7-III.H. INCOME FROM EXCLUDED SOURCES [Notice PIH 2013-04]**

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, PHAs are not required to follow the verification hierarchy. Fully excluded income is defined as income that is entirely excluded from the annual income determination, e.g., food stamps, a minor's earned income or foster care funds.

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. PHAs 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 HUD's verification hierarchy and to report income on the [Form HUD-50058](#). Partially excluded income is defined as income when only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income, e.g., income of an adult full-time student or income excluded under Earned Income Disallowance.

#### **PHA Policy**

The PHA 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.I. ZERO ANNUAL INCOME STATUS**

#### **PHA Policy**

HACLB will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SSI, etc., are not being received by families claiming to have zero annual income. HACLB may run credit checks on zero income families to identify expenses and sources of income claimed on family credit applications.

**7-III.J. STUDENT FINANCIAL ASSISTANCE [Notice PIH 2015-21]**Any financial assistance, in excess of amounts received for tuition, fees, and other required charges, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance. [FR 4/10/06]

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income.



The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3- 2). Excluded amounts are verified only if, without verification, the PHAB would not be able to determine whether or to what extent the income is to be excluded. (see Section 7-III.H)

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>

#### PHA Policy

For a student subject to having a portion of their student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the PHA will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

In addition, the PHA will request written verification of the student's tuition, fees, and other required charges.

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.K. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from their parents in accordance with PHA Policy. [[24 CFR §5.612](#) and FR 4/10/06, p. 18146]

This provision does not apply to students residing with parents who are seek or receive HCV assistance. It is limited to students who seek or receive assistance on their own, separately from their parents.

#### PHA Policy

If HACLB is required to determine the income eligibility of a student's parents, an income declaration from the parent(s) will be requested (see section 3-II.E). HACLB will send a third-party written verification. The required information must be submitted within ten (10) business days.

HACLB reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters and other official and authentic documents from a federal, state or local agency.

## **PART IV: VERIFYING MANDATORY DEDUCTIONS**

### **7-IV.A. DEPENDENT AND ELDERLY/DISABLED HOUSEHOLD DEDUCTIONS**

The dependent and elderly/Disabled family deductions require only that HACLB verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

**Dependent Deduction** (Chapter 6, section 6-II.B) HACLB must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head of household, spouse or co-head of the family and is not a foster child
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide and is a person with a disability or a full-time student

#### **Elderly/Disabled Family Deduction**

See Eligibility Chapter for a definition of elderly and disabled families and Chapter 6, Section II.C for a discussion of the deduction. HACLB must verify that the head of household, spouse or co-head is 62 years of age or older or a person with disabilities.

## **7-IV.B. MEDICAL EXPENSE DEDUCTION**

Policies related to medical expenses are found in 6-II.D. The amount of the deduction is verified following the standard verification procedures described in Part I.

### **Amount of Expense**

#### PHA Policy

Medical expenses are verified through:

Written third-party documents provided by the family, such as pharmacy printouts or receipts.

HACLB will make a best effort to determine which past expenses will likely continue to occur in the future. HACLB will also accept evidence of monthly payments that are paid for medical expenses for the upcoming 12 months.

Written third-party verification forms, if the family is unable to provide acceptable documentation.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.

In addition, HACLB must verify that:

- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.
- Costs incurred in past years are counted only once.

**Eligible Household**

The medical expense deduction is only permitted for households in which the head, spouse or co-head is at least 62 or a person with disabilities. PHAs must verify that the family meets the definition of an elderly or disabled family. (see Chapter 7-IV.A )

**Qualified Expenses**

Costs must qualify as medical expenses. (see Chapter 6, section 6-II.D)

**Unreimbursed Expenses**

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**PHA Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the PHA 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 is verified following HACLB's standard verification procedures.

##### **Amount of Expense**

###### ***Attendant Care***

###### PHA Policy

The PHA will accept written third-party documents provided by the family.

If family-provided documents are not available, the PHA will provide a third-party verification form directly to the care provider requesting the needed information.

Expenses for attendant care will be verified through:

- Written third-party documents provided by the family, such as receipts or cancelled checks

- Third-party verification form signed by the provider, if family-provided documents are not available

- If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming 12 months

###### ***Auxiliary Apparatus***

###### PHA Policy

Expenses for auxiliary apparatus are 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, HACLB must verify that:

- The family member for whom the expense is incurred is a person with disabilities (see 7-II.F above).

- The expense permits a family member or members, to work (see 6-II.E).

- The expense is not reimbursed from another source (see in 6-II.E).

##### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. (see 7-II.F)

**Family Member(s) Permitted to Work**

HACLB must verify that the expenses claimed actually enable a family member or members, (including the person with disabilities) to work.

PHA Policy

HACLB 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)

If third-party verification is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member or members to work.

**Unreimbursed Expenses**

To be eligible for the disability expense deduction, the costs must not be reimbursed by another source.

PHA Policy

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

#### **7-IV.D. CHILD CARE EXPENSES**

Policies related to childcare expenses are found in Chapter 6 (6-II.F). The amount of the deduction is verified by following standard verification procedures. In addition, HACLB must verify that:

- The child is eligible for care.
- The costs claimed are not reimbursed.
- The costs enable a family member to pursue an eligible activity.
- The costs are for an allowable type of 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. HACLB will verify that the child being cared for (including foster children) is under the age of 13. (see 7-II.C)

#### **Unreimbursed Expense**

Childcare expenses must not be reimbursed by another source.

#### PHA Policy

The family (and the care provider) will be required to certify that child care expenses are not paid or reimbursed to the family from any source.

## **Pursuing an Eligible Activity**

PHAs must verify that the family member(s) enabled to seek work, pursue education or be gainfully employed are actually pursuing those activities.

### PHA Policy

*Information to be Gathered.* HACLB will verify information about how the schedule for the claimed activity relates to the hours of care provided, transportation time, study time 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.* When possible, HACLB will use documentation from a state or local agency that monitors work-related requirements, e.g., welfare or unemployment. When third-party verification is not available, HACLB will accept self-certification.

*Furthering Education.* HACLB will request third-party documentation to verify that the person permitted to further their 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.* HACLB will seek third-party verification of the person's work schedule permitted to work due to childcare. In cases in which two or more members could be permitted to work, the work schedules for all relevant members may be verified. The documentation may be provided by the family.



### **Allowable Type of Child Care**

The type of care to be provided is determined by the family and must fall within certain guidelines, as discussed in Chapter 6.

#### PHA Policy

The PHA will verify that the type of child care selected by the family is allowable, as described in Chapter 6 (6-II.F).

The PHA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The PHA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

### **Reasonableness of Expenses**

Only reasonable childcare costs can be deducted.

#### PHA Policy

The actual costs the family incurs will be compared with the PHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, the PHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

If the family presents a justification for costs that exceed typical costs in the area, the PHA 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 Guidebook, Chapter 5, pages 5-9 through 5-10](#)]

**All** noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to HACLB.

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 is made and the applicant’s entitlement to the document is verified; or

Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, it will be announced by notice published in the *Federal Register*.



## Chapter 8

### NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 5 Subpart G and Notice PIH 2023-28]

#### INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) and Project Based Voucher (PBV) assistance meet HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) regulations and standards no later than October 1, 2024. The inspection performance standards and procedures for conducting NSPIRE inspections must be included in the administrative plan [Notice PIH 2023-28].

All units must pass an NSPIRE inspection prior to the approval of a lease (with some exceptions) and at least once every 24 months (or 36 months for small rural PHAs) during the term of the HAP contract, and at other times as needed, to determine that the unit meets NSPIRE standards. HUD also requires PHAs to determine that rents for units under the program are reasonable when compared to comparable unassisted units in the market area.

Provided they meet certain requirements, HUD permits PHAs to establish some additional local requirements in their administrative plans. The use of the term *NSPIRE* in this plan refers to the combination of both HUD and PHA-established requirements. However, state and local codes, compliance is not part of the determination of whether a unit passes the NSPIRE standards.

This chapter explains HUD and PHA requirements related to physical inspections and rent reasonableness as follows:

Part I. Physical Standards. This part discusses NSPIRE standards required of units occupied by HCV and PBV-assisted families. It also identifies affirmative habitability requirements for all units and life-threatening conditions that must be corrected in 24 hours.

Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet NSPIRE standards.

Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special NSPIRE requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction. Special requirements for the PBV and RAD PBV programs (if applicable) are discussed in Chapters 17 and 18, respectively.



## **PART I: NSPIRE STANDARDS**

NSPIRE standards are published on HUD's NSPIRE website as well as in the NSPIRE Final Rule [FR Notice 5/1//2023].

### **8-I.A. INSPECTABLE AREAS [24 CFR 5.703(a)(1) and 24 CFR 5.705(a)(2)]**

NSPIRE defines the inspectable areas for inspection under the standards as inside, outside and unit. However, the inspection requirement for the HCV and PBV programs only applies to units occupied or to be occupied by HCV or PBV participants and common areas and exterior areas which either service or are associated with such units.

### **8-I.B. AFFIRMATIVE HABITABILITY REQUIREMENTS [24 CFR 5.703(b), (c), and (d)]**

NSPIRE provides for minimum, or affirmative, habitability requirements for each area (unit, inside, outside). These areas must meet these requirements for habitability, which are listed in Exhibit 8-1.

The inside, outside and unit must be free of health and safety hazards that pose a danger to residents. Types of health and safety concerns include, but are not limited to carbon monoxide, electrical hazards, extreme temperature, flammable materials or other fire hazards, garbage and debris, handrail hazards, infestation, lead-based paint, mold, and structural soundness [24 CFR 5.703(e)].

The NSPIRE Smoke Alarm Standard does not require that smoke alarms have a sealed battery; however, upon the effective date of the Public and Federally Assisted Housing Fire Safety Act of 2022 on December 29, 2024, sealed batteries *will* be required.



### **8-I.C. ADDITIONAL LOCAL REQUIREMENTS [24 CFR 5.705(a)(3) and Notice PIH 2023-28]**

The PHA may impose variations to the NSPIRE standards 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 NSPIRE standards and approved variations must be added to the administrative plan.

HUD may approve inspection criteria variations if the variations apply standards in local housing codes or other codes adopted by the PHA or because of local climatic or geographic conditions. Acceptability criteria variations may only be approved by HUD if such variations either meet or exceed the performance requirements or significantly expand affordable housing opportunities for families assisted under the program.

#### PHA Policy

The PHA has not requested any HUD-approved variations to NSPIRE standards.



## 8-I.D. LIFE-THREATENING DEFICIENCIES [Notice PIH 2023-28]

HUD previously required the PHA to define life-threatening conditions in the administrative plan. The NSPIRE standards now describe those conditions which are considered life-threatening and must be corrected within 24 hours.

The following are a list of life-threatening deficiencies under NSPIRE:

Inspectable Item	Deficiency
Call-for-Aid System	System is blocked, or pull cord is higher than 6 inches off the floor.
	System does not function properly
Carbon Monoxide Alarm	Carbon monoxide alarm is missing, not installed, or not installed in a proper location.
	Carbon monoxide alarm is obstructed.
	Carbon monoxide alarm does not produce an audio or visual alarm when tested.
Chimney	A visually accessible chimney, flue, or firebox connected to a fireplace or wood-burning appliance is incomplete or damaged such that it may not safely contain fire and convey smoke and combustion gases to the exterior.
	Chimney exhibits signs of structural failure.
Clothes Dryer Exhaust Ventilation	Electric dryer transition duct is detached or missing.
	Gas dryer transition duct is detached or missing.
	Electric dryer exhaust ventilation system has restricted airflow.
	Dryer transition duct is constructed of unsuitable material.
	Gas dryer exhaust ventilation system has restricted airflow.
Dorr – Entry	Entry door is missing.
Door – Fire Labeled	Fire labeled door is missing.
Egress	Obstructed means of egress.
	Sleeping room is located on the third floor or below and has an obstructed rescue opening.
	Fire escape is obstructed.
Electrical – Conductor, Outlet, and Switch	Outlet or switch is damaged.
	Exposed electrical conductor.
	Water is currently in contact with an electrical conductor.
Electrical – Service Panel	The overcurrent protection device is damaged.
Exit Sign	Exit sign is damaged, missing, obstructed, or not adequately illuminated.

<b>Inspectable Item</b>	<b>Deficiency</b>
Fire Escape	Fire extinguisher is damaged or missing.
Fire Extinguisher	Fire extinguisher pressure gauge reads over or under-charged.
	Fire extinguisher service tag is missing, illegible, or expired.
	Fire extinguisher is damaged or missing.
Flammable and Combustible Items	Flammable or combustible item is on or within 3 feet of an appliance that provides heat for thermal comfort or a fuel-burning water heater; OR Improperly stored chemicals.
Guardrail	Guardrail is missing or not installed.
	Guardrail is not functionally adequate.
Heating, Ventilation, and Air Conditioning (HVAC)	The inspection date is on or between October 1 and March 31 and the permanently installed heating source is not working or the permanently installed heating source is working and the interior temperature is below 64 degrees Fahrenheit.
	Unvented space heater that burns gas, oil, or kerosene is present.
	Combustion chamber cover or gas shutoff valve is missing from a fuel burning heating appliance.
	Fuel burning heating system or device exhaust vent is misaligned, blocked, disconnected, improperly connected, damaged, or missing.
Leak – Gas or Oil	Natural gas, propane, or oil leak.
Mold-like Substance	Presence of mold-like substance at extremely high levels is observed visually.
Smoke Alarm	Smoke alarm is not installed where required.
	Smoke alarm is obstructed.
	Smoke alarm does not produce an audio or visual alarm when tested.
Sprinkler Assembly	Sprinkler head assembly is encased or obstructed by an item or object that is within 18 inches of the sprinkler head.
	Sprinkler assembly component is damaged, inoperable, or missing and it is detrimental to performance.
	Sprinkler assembly has evidence of corrosion.
	Sprinkler assembly has evidence of foreign material that is detrimental to performance.
Structural System	Structural system exhibits signs of serious failure.
Toilet	Only 1 toilet was installed, and it is missing.

Inspectable Item	Deficiency
Water Heater	Chimney or flue piping is blocked, misaligned, or missing.
	Gas shutoff valve is damaged, missing, or not installed.

However, PHAs may add additional deficiencies which the PHA considers life-threatening provided they are described in the administrative plan.

#### PHA Policy

In addition to those listed under the NSPIRE standards, the following are considered life-threatening conditions:

Utilities not in service, including no running hot water

## **8-I.E. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]**

### **Family Responsibilities**

The family is responsible for correcting the following 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.

If a family fails to correct a family-caused life-threatening condition as required by the PHA, the PHA will enforce the family obligations. See 8-II.H.

#### PHA Policy

Damages beyond ordinary wear and tear will be considered to be damages which could be assessed against the security deposit under state law or in court practice.

### **Owner Responsibilities**

The owner must maintain the unit in accordance with NSPIRE regulations and standards. The owner is not responsible for a breach of the HQS that is not caused by the owner, and for which the family is responsible (as provided in 24 CFR 982.404(b) and 982.551(c)).

#### PHA Policy

The owner is responsible for all NSPIRE 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.

The owner will be required to repair an inoperable smoke detector unless the PHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within 24 hours.

If an owner fails to correct life-threatening conditions as required by the PHA, the PHA will enforce the NSPIRE standards in accordance with HUD requirements. See 8-II-G.

## **8-I.F. LEAD-BASED PAINT**

PHAs and owners must comply with the requirements and timelines in 24 CFR Part 35 Subpart M—Tenant-Based Rental Assistance and Subpart H—Project-Based Assistance. PHAs and owners are reminded that any deteriorated paint in target housing, or other lead-based paint hazard identified through a lead-based paint risk assessment or lead-based paint inspection is considered a violation of NSPIRE standards.

For the HCV program, Subpart M applies to units where a child under age six resides or is expected to reside, common areas that service that unit, and exterior painted surfaces associated with that unit or common areas. For project-based programs, Subpart H applies to assisted units and common areas of the property regardless of whether a child under age six resides or is expected to reside in the unit. NSPIRE does not alter any of the lead-based paint requirements in Part 35 for these programs.

### **Special Requirements for Children with Elevated Blood Lead Level [24 CFR 35.1225; FR Notice 1/13/17; Notice PIH 2017-13]**

If a PHA 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 elevated blood lead level, the PHA must complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation 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 environmental investigation report from the PHA, 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 the PHA will take action in accordance with Section 8-II.G.

PHA reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

### **8-I.G. VIOLATION OF SPACE STANDARDS [24 CFR 5.703(d)(5)]**

Units assisted under the HCV or PBV programs must have at least one bedroom or living/sleeping room for each two persons. 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]. Each habitable room must have two working outlets or one working outlet and a permanent light. HUD defines a *habitable room* as a room in a building for living, sleeping, eating, or cooking, but excluding bathrooms, toilet rooms, closets, hallways, storage or utility spaces, and similar areas [FR Notice 5/11/23].

A unit that does not meet these space standards is defined as *overcrowded*.

If the PHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.



## **PART II: THE INSPECTION PROCESS**

### **8-II.A. OVERVIEW [24 CFR 982.405]**

#### **Types of Inspections**

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections.* The PHA 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 the PHA to inspect each unit under lease at least annually or biennially (or triennially for small rural PHAs as defined in 24 CFR 982.305(b)(2)), depending on PHA policy, to confirm that the unit still meets NSPIRE standards.
- *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 NSPIRE standards.

#### **Inspection of PHA-Owned Units [24 CFR 982.352(b)]**

The PHA must obtain the services of an independent entity to perform all NSPIRE inspections in cases where an HCV family is receiving assistance in a PHA-owned unit. A *PHA-owned unit* is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of each inspection to the family and the PHA. The independent agency must be approved by HUD and 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).

For information on the inspection of PHA-owned units in the PBV program, see Chapters 17 and 18.



## **Inspection Costs [Notice PIH 2016-05; 24 CFR 5.705(d)]**

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.

### PHA Policy

The PHA 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 NSPIRE 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 NSPIRE standards, 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

At the PHA's discretion, the PHA may use remote video inspections (RVIs) for all inspection types as an alternative to an onsite inspection. The PHA will not, however, conduct RVIs in pre-1978 units where a child or children under six will reside. For these units, the PHA will conduct an onsite inspection unless the participant requests and RVI as a reasonable accommodation.

Before conducting an RVI, both the PHA and impacted party with legal possession of the unit must agree to its use. Prior to conducting any RVI, the PHA will agree with the relevant parties to use an RVI rather than an onsite inspection. For unoccupied units, this agreement will be between the PHA and the owner. For occupied units, the agreement will be between the PHA and the tenant or other adult household member. In either case, if an agreement cannot be reached, the PHA will conduct an onsite inspection.

When selecting a proxy, the PHA may relay on the owner, property representative, tenant, or any adult associated with tenancy. The proxy will be selected through a mutual decision between the PHA, owner, and family.

When selecting the proxy, the PHA will:

Verify that, for properties built before 1978 where a child under six resides or will reside, the proxy has completed the HUD Lead-Based Paint Visual Assessment Training Course;

Ensure the proxy is able to determine whether there is a smell of natural gas, methane, or other noxious gas; and

Ensure that on the day of the inspection the proxy has a:

Tape measure.

Working flashlight.

Circuit analyzer to test the low-voltage operation of electrical lines.

Means to test smoke and carbon monoxide detectors.

Temperature gun.

Smartphone or tablet reliable internet connection either through 4G or 5G connectivity and sufficient data or reliable Wi-Fi available onsite. The device must have a high camera resolution (megapixels, sensors, and pixel size).

If the PHA cannot identify a proxy that is able to meet the above criteria, the PHA will conduct an in-person inspection.

The proxy must follow the directions of the inspector. The proxy will live stream the inspection using the PHA's designated streaming web-based platform. The RVI may not be recorded.

During the RVI, the inspector will:

Verify the address and street name outside the unit match that of the unit to be inspected.

Inspect the unit's exterior and adjoining properties in accordance with NSPIRE standards through the proxy.

Inspect all interior spaces in accordance with NSPIRE standards through the proxy.

For pre-1978 properties, follow all national and state lead-based paint requirements.

During the RVI, the proxy will:

Examine all sides of a structure, including fences and outbuildings, visually examining paint conditions of all siding, trim, windows, porches, steps, columns, and any other painted areas on the unit's exterior.

Review each room separately and visually examine the paint conditions of walls, ceilings, steps, floors, doors, door frames, and windows, including window troughs.

Document the amount of deterioration, indicating whether the scale is greater or less than the HUD de minimis amounts for deteriorated paint (including cracked, chipped, or otherwise damaged paint).

If at any time it becomes clear that the connection is unreliable, the lighting in the unit is insufficient, the necessary tools are unavailable, the noise level in or outside the unit is

unacceptable, or any other circumstances as determined by the inspector, the inspector will record the unit as failed and schedule an in-person inspection.

### **Notice and Scheduling**

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

#### **PHA Policy**

Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, the PHA will give as much notice as possible, given the nature of the emergency.

## **Owner and Family Inspection Attendance**

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

### PHA 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 encouraged but is not required.

At initial inspection of a vacant unit, the PHA will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted but is not required.

## **8-II.B. INITIAL INSPECTION**

### **Approving Units [FR Notice 1/18/17; Notice PIH 2017-20; and 24 CFR 982.406]**

HUD regulations require that units assisted under the HCV program be inspected to determine that the units meet NSPIRE standards before the PHA approves assisted tenancy. However, while the PHA is required to conduct an inspection prior to approving assisted tenancy, PHAs have two options for bringing units under HAP contract (or, in the case of PBV, approving occupancy and the execution of a lease) more quickly. The PHA may, but is not required to approve assisted tenancy and start HAP if the unit:

- Fails the initial inspection, but only if no life-threatening deficiencies are identified.
- Passed an alternative inspection in the last 24 months.

Otherwise, if neither of the above provisions are adopted, the PHA must determine that the unit the family selects meets NSPIRE standards prior to approving tenancy.

### PHA Policy

The unit must pass the initial inspection on or before the effective date of the HAP contract.

The PHA will not rely on alternative inspections and will conduct an initial inspection for each unit prior to executing a HAP contract with the owner.

### **Timing of Initial Inspections [24 CFR 982.395(b)(2)(i)]**

HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies NSPIRE standards, 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.

### PHA Policy

The PHA will complete the initial inspection, determine whether the unit satisfies NSPIRE standards, and notify the owner and the family of the determination within 15 days of submission of the Request for Tenancy Approval (RTA).

## **Inspection Results and Reinspections**

For new units proposed for the HCV program, life-threatening deficiencies must be resolved before the HAP contract is executed and the family moves into the unit.

### PHA Policy

If any deficiencies are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by the PHA for good cause. The PHA will reinspect the unit within five business days of the date the owner notifies the PHA that the required corrections have been made.

If the time period for correcting the deficiencies (or any PHA-approved extension) has elapsed, or the unit fails at the time of the reinspection, the PHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The PHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner.

Following a failed reinspection, the family may submit a new Request for Tenancy Approval for the same unit after the owner has made repairs, if they are unable to locate another suitable unit.

## **Utilities**

Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

### PHA Policy

Utility service must be available for testing at the time of the initial inspection.

## **Appliances**

### PHA Policy

If the family is responsible for supplying the stove and/or refrigerator, the PHA will allow the stove and refrigerator to be placed in the unit after the unit has met all other NSPIRE requirements. The required appliances must be in place before the HAP contract is executed by the PHA. The PHA 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 INSPECTIONS [24 CFR 982.405 and 982.406; Notice PIH 2016-05]**

HUD requires the PHA to inspect each unit under HAP contract at least biennially (or triennially for small rural PHAs), to confirm that the unit still meets NSPIRE standards. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.

### PHA Policy

Each unit under HAP contract must be inspected biennially within 24 months of the last full inspection. The PHA reserves the right to require annual inspections of any unit or owner at any time.

The PHA will not rely on alternative inspection standards.

## **Scheduling the Inspection**

### PHA Policy

If an adult cannot be present on the scheduled date, the family should request that the PHA reschedule the inspection. The PHA and family will agree on a new inspection date that generally should take place within five business days of the originally scheduled date. The PHA may schedule an inspection more than five business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the PHA will automatically schedule a second inspection. If the family misses two scheduled inspections without PHA approval, the PHA 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 family 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.

### PHA Policy

During a special inspection, the PHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional 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 the PHA 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 PHA 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 NSPIRE standards.

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**

### **Correction Timeframes**

Each deficiency is identified in the NPSIRE standards as either life-threatening, severe, moderate, or low.

For units under HAP contract, life-threatening deficiencies must be corrected within 24 hours after notice has been provided. All other non-life-threatening deficiencies (severe and moderate) must be corrected within 30 days (or a PHA-approved extension) after notice has been provided. If low deficiencies are present in a unit, these deficiencies result in a pass and would only be noted by the inspector for informational purposes.

### **Notification of Corrective Actions**

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies deficiencies, the PHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

#### **PHA Policy**

When life-threatening deficiencies are identified, the PHA will immediately notify both parties by telephone or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the PHA's notice.

When failures that are severe or moderate are identified, the PHA 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. If low deficiencies are identified, these deficiencies will only be noted for informational purposes.

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 PHA-approved extension), the owner's HAP will be abated in accordance with PHA 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 PHA-approved extension, if applicable) the family's assistance will be terminated in accordance with PHA policy (see Chapter 12).

## **Extensions**

For life-threatening deficiencies, the PHA cannot grant an extension to the 24-hour corrective action period. For conditions that are severe or moderate, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate.

### **PHA Policy**

Extensions will be granted in cases where the PHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

A repair cannot be completed because required parts or services are not available.

A repair cannot be completed because of weather conditions.

A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

## **Reinspections**

### **PHA Policy**

The PHA will conduct a reinspection immediately following the end of the corrective period, or any PHA 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, the PHA 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 PHA policies. If the PHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, the PHA 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 may accept self-certification from the owner that deficiencies have been corrected provided the owner has no history of noncompliance with the program and all deficiencies are severe or moderate. In deciding whether to allow for this type of documentation, the PHA will consider the severity of corrections needed and/or its experience with the owner and property.

Self-certification may include photos or videos, certification from a building maintenance official that work has been completed, evidence from a utility company that service has been restored, or other documented proof of repairs that include the



date of repair such as receipts. All verifications must document the repair was made to the PHA's satisfaction and that a deficiency is no longer present.

The PHA will only allow for self-certification of severe and moderate deficiencies. The PHA will not accept self-certification of repairs in PBV units, for repairs made due to deficiencies at initial move-in, for life-threatening deficiencies, or for any life safety systems such as smoke alarms.

When the PHA permits the use of photos as verification of correction, each photo taken must be clearly labeled so that the relevant content of the photo is easily identified and must be matched to a specific item on the inspection form along with any written description of the deficiency.

The PHA will ensure that any photos or videos remain secure and are used only by staff or others needing access for purposes of the inspection. Photos or videos will remain within a secure file as long as a family is receiving assistance in the specific unit.

All evidence of repairs must be submitted to the PHA at least five business days prior to the scheduled reinspection date or of the deadline provided to the owner and family; otherwise, the reinspection date will stand. The PHA will encourage owners to use email to submit all documentation. The PHA will notify the owner of the acceptance or denial of the submitted documentation via email or phone at least one business day prior to the inspection. If the PHA does not accept the owner's self-certification, the inspection date will stand.

The PHA reserves the right to conduct an in-person inspection to verify corrections have been made at any time. The PHA may require a reinspection, regardless of whether the owner submits self-certification documentation, and may deny the option to submit a self-certification where any question remains regarding the integrity of the documentation provided, where documentation is lacking (i.e., fail items where no receipts or other evidence reflect repair), or where an owner has a repeated history of regular or repeat fails.

## **8-II.G. ENFORCING OWNER COMPLIANCE**

If the owner fails to maintain the dwelling unit in accordance with NSPIRE standards, the PHA must take prompt and vigorous action to enforce the owner obligations.

### **HAP Abatement**

If an owner fails to correct deficiencies by the time specified by the PHA, HUD requires the PHA 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 deficiencies that are the family's responsibility.

#### PHA Policy

The PHA will make all HAP abatements effective the first of the month following the expiration of the PHA specified correction period (including any extension).

The PHA will inspect abated units within five 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**

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

#### PHA Policy

The maximum length of time that HAP may be abated is 90 days. However, if the owner completes corrections and notifies the PHA before the termination date of the HAP contract, the PHA may rescind the termination notice if (1) the family still resides in the unit and wishes to remain in the unit and (2) the unit passes inspection.

Reasonable notice of HAP contract termination by the PHA is 30 days.

#### **8-II.H. ENFORCING FAMILY COMPLIANCE [24 CFR 982.404(b)]**

Families are responsible for correcting any deficiencies listed in paragraph 8-I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), the PHA 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 the PHA 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.

#### **PHA-Owned Units [24 CFR 982.352(b)]**

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA 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 PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD and 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).

## **8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED**

### **Owner-Initiated Rent Determinations**

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy the PHA 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 inspection have been corrected.

#### PHA Policy

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the PHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than 4 units. In evaluating the proposed rents in comparison to other units on the premises the PHA will consider unit size and length of tenancy in the other units.

The PHA will determine whether the requested increase is reasonable within 10 business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rents adjustments will be effective the first of the month following 60 days after the PHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

### **PHA and HUD-Initiated Rent Reasonableness Determinations**

HUD requires the PHA 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 the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

#### PHA Policy

In addition to the instances described above, the PHA will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the PHA determines that the initial rent reasonableness determination was in error or (2) the PHA 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.

### **8-III.C. HOW COMPARABILITY IS ESTABLISHED**

#### **Factors to Consider**

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made
- Amenities, services, and utilities included in the rent

#### **Units that Must Not Be Used as Comparables**

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance [Notice PIH 2002-22, Notice PIH 2005-20, and Notice PIH 2020-19].

**Note:** Notice PIH 2020-19, 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 the PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

## **8-III.D. PHA RENT REASONABLENESS METHODOLOGY**

### **How Market Data Is Collected**

#### PHA Policy

The PHA will primarily utilize [www.AffordableHousing.com](http://www.AffordableHousing.com) which will collect and maintain data on market rents in the PHA'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.

The data will be updated on an ongoing basis and rent information that is more than 12 months old will be archived in [www.AffordableHousing.com](http://www.AffordableHousing.com). Market Rent Data greater than 12 months old will not be used for eligibility but may be used for reference.

### **How Rents Are Determined**

#### PHA Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area. The PHA will develop a range of prices for comparable units by bedroom size within defined market areas. Units proposed for HCV assistance will be compared to the units within this rent range. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the PHA 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).

The PHA uses a unit-to-unit comparison, by which the rent for a unit proposed for HCV assistance is directly compared to the rents for one or more unassisted units selected as comparables within the same market area. Geocoded maps will be used to identify the non-assisted units in closest proximity to the subject unit, and unit data information will be used to select the most similar units.

In comparing rents, the PHA will take into account critical market factors that impact rent, including the location, quality, size, unit type, and age of the contract unit, as well as any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

Where comparable units differ from the unit proposed for HCV assistance, the PHA will determine whether those differences impact rent. Where they do, the PHA will

adjust the rental value of the comparable units, up or down, based on the market value of these factors. The rent for the unit proposed for HCV assistance will be compared to the adjusted rents for the comparable units, enabling a fair, accurate, market-based determination of rent reasonableness.

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 rents units are presumed to have functioning roofs). When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of \$500/month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows:  $\$500 \times 11 \text{ months} = 5500 / 12 \text{ months} = \text{actual monthly rent of } \$488$ .

The PHA will notify the owner of the rent the PHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. The PHA 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 the PHA's request for information or the owner's request to submit information.





<b>EXHIBIT 8-1: AFFIRMATIVE HABITABILITY REQUIREMENTS</b>
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<b>Affirmative Habitability Requirements: Inside</b>
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Must include at least 1 battery-operated or hard-wired smoke detector, in proper working condition, on each level of the property.
--

Must meet or exceed the carbon monoxide detection standards set by the Secretary through <i>Federal Register</i> notification.
--

Any outlet installed within 6 feet of a water source must be GFCI protected.
--

Must have a guardrail when there is an elevated walking surface with a drop off of 30 inches or greater measured vertically.
--

Must have permanently mounted light fixtures in any kitchens and each bathroom.
---

May not contain unvented space heaters that burn gas, oil or kerosene.
--

<b>Affirmative Habitability Requirements: Outside</b>
---

Any outlet installed within 6 feet of a water source must be GFCI-protected.
--

Must have a guardrail when there is an elevated walking surface with a drop off of 30 inches or greater measured vertically.
--

<b>Affirmative Habitability Requirements: Unit</b>
Must have hot and cold running water in the bathroom and kitchen, including an adequate source of safe drinking water in the bathroom and kitchen.
Must include its own bathroom or sanitary facility that is in proper operating condition and usable in privacy. It must contain a sink, a bathtub or shower, and an interior flushable toilet.
<p>Must have at least one battery-operated or hard-wired smoke detector, in proper working condition, in the following locations:</p> <ul style="list-style-type: none"> <li>• On each level of the unit AND</li> <li>• Inside each bedroom or sleeping area AND</li> <li>• With 21 feet of any door to a bedroom measured along a path of travel AND</li> <li>• Where a smoke detector is installed outside a bedroom is separated from an adjacent living area by a door, a smoke detector must also be installed in the living area side of the door.</li> </ul>
If the unit is occupied by a hearing-impaired person, the smoke detectors must have an alarm system designed for hearing-impaired persons.
Must have a living room and a kitchen area with a sink, cooking appliance, refrigerator, food preparation area and food storage area.
Must have two working outlets or one working outlet and one permanent light fixture within all habitable rooms.
Must have a permanently mounted light fixture in each bathroom and in the kitchen.
Outlets within 6 feet of water source must be GFCI-protected.
Must have permanently installed heating source.
No units may contain unvented space heaters that burn gas, oil or kerosene.
Must have a guard rail when there is an elevated walking surface with a drop off of 30 inches or greater measured vertically.
Must have at least one bedroom or living/sleeping room for each two persons.

## 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 Housing Assistance Payments (HAP) contract. In order for the Housing Authority of the City of Long Beach (HACLB) to assist a family in a particular dwelling unit or execute a Housing Assistance Payment (HAP) Contract with an owner, HACLB must determine that all the following program requirements are met: [\[24 CFR §982.305\(a\)\]](#)

- The unit itself must qualify as an eligible unit;
- The unit must be inspected by HACLB and meet the National Standards for the Physical Inspection of Real Estate (NSPIRE) [\[24 CFR 982.305\(a\)\]](#);
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum;
- The rent to be charged by the owner for the housing unit must be reasonable;
- The owner must be an eligible owner, approvable by HACLB, with no conflicts of interest [\[24 CFR §982.306\]](#)
- For families initially leasing a unit only: When the gross rent of the housing 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. This is also known as the maximum initial rent burden. [\[24 CFR](#)
- [§982.305\(a\)](#), [24 CFR §5.508](#), and HCV GB, page 6-2]

### **9-I.A. TENANT SCREENING**

Public Housing Agencies (PHAs) have no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. [[24 CFR §982.307\(a\)\(1\)](#)]

PHAs may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of HACLB's policies with regard to screening applicant families for program eligibility. [[24 CFR §982.30\(a\)\(1\)](#)]

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 their rights and obligations under the Violence Against Women Reauthorization Act of 2013 (VAWA). [[24 CFR, Subpart L §5.2005\(a\)\(2\)](#)]

The PHA must provide the owner with the family's current and prior address (as shown in the PHA's records) and the name and address (if known to the PHA) of the owner at the family's current and prior address. [[24 CFR §982.307\(b\)\(1\)](#)]

The PHA is permitted, but not required, to offer the owner other information in the PHA's possession about the family's tenancy. [[24 CFR §982.307\(b\)\(2\)](#)]

The PHA's policy on providing information to the owner must be included in the family's briefing packet. [[24 CFR §982.307\(b\)\(3\)](#)]

The PHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence or stalking except at the written request or with the written consent of the individual providing the documentation. [[24 CFR Part 5, Subpart L, §5.2007\(b\)\(4\)](#)]

#### **PHA Policy**

HACLB will not screen applicants for family behavior or suitability for tenancy. HACLB will not provide additional screening information to the owner.

### **9-I.B. REQUEST FOR TENANCY APPROVAL** [[Form HUD-52517](#)]

After the family is issued a Voucher, the family must locate an eligible unit, with an owner willing to participate in the Housing Choice Voucher (HCV) program. Once a family finds a suitable unit and the owner is willing to lease the housing unit under the program, the owner and the family must request the PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to HACLB:

- A complete Request For Tenancy Approval (RFTA) – [Form HUD-52517](#); and
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum –
- Form HUD-52641-A

The RFTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent and the requested beginning date of the lease, necessary for PHAs to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the housing unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA grants a request for Reasonable Accommodation for a person with disabilities who is a member of the family.

For units constructed prior to 1978, owners must either: 1) certify that the housing unit, common areas and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RFTA and the proposed lease must be submitted no later than the expiration date stated on the Voucher. [[HCV GB, Chapter 8, page 8-15](#)]

#### PHA Policy

The RFTA must be signed by both the family and the owner. The owner may submit the RFTA on the family's behalf. Completed RFTA, including the proposed lease, must be submitted as a hard copy in-person by mail, or email.

The family may not submit and HACLB will not process, more than one (1) RFTA at a time. When the family submits the RFTA, HACLB staff will review the RFTA for completeness.

If the RFTA is incomplete (including lack of signature by family, owner or both) or if the lease is not submitted with the RFTA, HACLB will notify the family and the owner of the deficiencies.

Missing information and/or missing documents will only be accepted as a hard copy in-person or by mail, email or by fax. HACLB will not accept missing

information over the phone.

When the family submits the RFTA and proposed lease, HACLB will also review the terms of the RFTA for consistency with the terms of the proposed lease.

If the terms of the RFTA are not consistent with the terms of the proposed lease, HACLB will notify the family and the owner of the discrepancies.

Corrections to the terms of the RFTA and/or the proposed lease will only be accepted as a hard copy in-person by mail, or email or by fax.. HACLB will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, HACLB will attempt to communicate with the owner and family by phone, fax or email. HACLB will use mail when the parties can't be reached by phone, fax or email.

#### **9-I.C. OWNER PARTICIPATION**

PHAs do not formally approve an owner to participate in the HCV program. However, there are a number of instances when PHAs may deny approval of an assisted tenancy based on past owner behavior, conflict of interest or other owner-related issues. No owner has a right to participate in the HCV program. [[24 CFR §982.306\(e\)](#)]

See Chapter 13, for a full discussion of owner qualification to participate in the HCV program.

## **9-I.D. ELIGIBLE UNITS**

There is a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the HCV program. Generally, a Voucher-holder family may choose any available rental dwelling unit on the market in the PHA's jurisdiction. Eligible units also include the dwelling unit currently occupied by the Voucher holder.

### **Ineligible Units** [24 CFR §982.352(a)]

PHAs may not assist a unit under the HCV program if the housing unit is a public housing or Indian housing unit; a unit receiving project-based assistance under Section 8 of the [United States Housing Act of 1937](#) (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 the owner or by a person with any interest in the housing unit.

### **PHA-Owned Units** [24 CFR §982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the PHA issuing the Voucher may be leased in the HCV program. In order for a PHA-owned unit to be leased under the HCV program, the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease.

#### PHA Policy

HACLB does not have any eligible PHA-owned units under the HCV program.

### **Special Housing Types** [24 CFR §982 Subpart M]

With a few exceptions, HUD regulations permit, but do not require PHAs to permit families to use HCV assistance in Special Housing types. Special Housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, manufactured home space (when the family owns the manufactured home and leases the space), cooperative housing and Homeownership. See Chapter 15 for specific information and policies on Special Housing types permitted by the PHA.

The regulations do require PHAs 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.

**NSPIRE Standards [Notice PIH 2023-28]** In order to be eligible, the dwelling unit must be in safe and habitable condition. This determination is made using HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the NSPIRE standards, as well as the process for inspection at initial lease up.

### **Unit Size [[24 CFR §982.402\(d\)](#)]**

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 their Voucher, provided the housing unit meets the applicable space requirements [24 CFR 5.703(d)(5)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on their Voucher. (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 §982.305\(a\)](#), [24 CFR §5.508](#), and HCV GB, page 6-2]

When a family is initially leasing a unit and the gross rent of the housing unit exceeds the applicable Payment Standard for the family, the dwelling unit rent must be at a level where the family's share of rent does not exceed 40 percent of the family's monthly adjusted income. See Chapter 6, for a discussion of calculation of gross rent, the use of Payment Standards and calculation of family income, family share of rent and HAP.

### **9-I.E. LEASE AND TENANCY ADDENDUM**

The family and the owner must execute and enter into a written lease for the assisted unit. This written lease is a contract between the tenant family and the owner. The PHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner. [24 CFR §982.308(a)]

#### **Lease Form and Tenancy Addendum [24 CFR §982.308]**

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP Contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease is in such standard form.

All provisions in the HUD-required Tenancy Addendum must also be added word-for-word to the owner's standard lease. The Tenancy Addendum includes the tenancy requirements for the program and the composition of the household as approved by the PHA. As a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner and the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

#### PHA Policy

The PHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

#### **Lease Information [24 CFR §982.308(d)]**

The assisted 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; and
- 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** [24 CFR §982.309]

The initial term of the assisted lease must be for at least one year. The initial lease term is also stated in the HAP Contract.

HUD program regulations permit PHAs to approve a shorter initial lease term if certain conditions are met.

**PHA Policy – Change to Option 2**

The PHA will approve an initial lease term of less than one (1) year only where the PHA determines and can clearly document that (i) Such shorter term would improve housing opportunities for the tenant and (ii) Such shorter term is the prevailing local market practice.

During the initial term of the lease, the owner may not increase the contract rent. Any provisions for renewal of the lease will be stated in the lease. [[HCV GB, Chapter 8, page 8-22](#)]

There are no HUD requirements regarding any renewal extension terms, except that the terms, if any, must be in the lease.

PHAs 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. PHAs may prohibit security deposits in excess of private market practice or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP Contract. [Form HUD-52641]

**PHA Policy**

HACLB will allow the owner to collect any security deposit amount that is consistent with state law and the owner determines is appropriate.

### **Separate Non-Lease Agreements between owner and Tenant**

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner minus the Housing Assistance Payment. [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)]

#### PHA Policy

HACLB 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 tenants as part of the lease or are permanently installed in the dwelling unit must be included in the family's lease. Items, appliances or services cannot be placed under a separate non-lease agreement. Side payments for additional rent or for items, appliances or services customarily provided to unassisted tenants as part of the lease, are prohibited.

Any items, appliances or other services that are not customarily provided to unassisted tenants as part of the lease with those families, are not permanently installed in the dwelling unit and when 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 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 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 will review the owner's lease for compliance with all applicable requirements.

### PHA Policy

If the dwelling lease is incomplete or incorrect, HACLB will notify the family and the owner of the deficiencies. Missing and corrected lease information will be accepted as a hard copy in-person, by mail, by electronic submission or by fax. HACLB will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, HACLB will attempt to communicate with the owner and family by phone, fax or email. HACLB 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 HACLB determines that the lease does not comply with State or local law. [24 CFR §982.308(c)]

### PHA Policy

HACLB 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 and proposed lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved. Prior to approving the assisted tenancy and execution of a HAP Contract, the PHA must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that:

- the housing unit is eligible;
- the housing unit is inspected by the PHA and meets NSPIRE standards;
- the lease offered by the owner is approvable and includes the required Tenancy Addendum;
- the rent to be charged by the owner for the housing unit must be reasonable;
- where the family is initially leasing a unit and the gross rent of the housing 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\(a\)](#), [24 CFR §5.508](#), and HCV GB, page 6-2]
- the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest; [[24 CFR §982.306](#)]
- the family and the owner have executed the lease, including the Tenancy Addendum and the lead-based paint disclosure information. [[24 CFR §982.305\(b\)](#)]

#### PHA Policy

HACLB will complete the RFTA determination within fifteen (15) business days of receiving all required information.

If the terms of the RFTA/proposed lease are changed for any reason, including, but not limited to negotiation with HACLB, HACLB will obtain corrected copies of the RFTA and proposed lease, signed by the family and the owner.

Corrections to the RFTA/proposed lease will be accepted as a hard copy in-person, by mail, by email or by fax. HACLB will not accept corrections over the phone. If HACLB determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. HACLB will instruct the owner and family of the steps that are necessary to approve the tenancy.

#### PHA Policy

When the tenancy is not approvable because the housing unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued Voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), HACLB will attempt to negotiate the rent with the owner.

If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued Voucher.

### **9-I.G. HAP CONTRACT EXECUTION** [[24 CFR §982.305](#)]

The HAP Contract is a written agreement between the PHA and the owner of the dwelling unit occupied by an assisted family. Under the HAP Contract, the PHA agrees to make Housing Assistance Payments to the owner on behalf of a specific family occupying a specific unit and obliges the owner to comply with all program requirements.

The HAP Contract format is prescribed by HUD. [[Form HUD-52641](#)]

If the PHA grants approval for the family of the assisted tenancy, the owner and the PHA 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)]

The PHA is permitted to execute a HAP Contract even if the funding currently available does not extend for the full term of the HAP Contract.

The PHA must make a best effort to ensure that the HAP Contract is executed before the beginning of the lease term. Regardless, the HAP Contract must be executed no later than 60 calendar days from the beginning of the lease term.

The PHA may not pay any Housing Assistance Payment to the owner until the HAP Contract has been executed. If the HAP Contract is executed during the period of 60 calendar days from the beginning of the lease term, the PHA 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 calendar days).

Any HAP Contract executed after the 60-day period is void and the PHA may not pay any Housing Assistance Payment to the owner.

#### **PHA Policy**

All owners should attend an owner's orientation, in which the terms of the Tenancy Addendum and the HAP Contract will be explained. The owner and the assisted family will execute the lease and the owner must provide a copy to HACLB. HACLB will ensure that both the owner and the assisted family receive copies of the lease.

The owner and HACLB will execute the HAP Contract. HACLB will not execute the HAP Contract until the owner has submitted all required ownership documents including the IRS form W-9. HACLB will ensure that the owner receives a copy of the executed HAP Contract.

See Chapter 13, for a discussion of the HAP Contract and contract provisions.



### **9-I.H. CHANGES IN LEASE OR RENT [24 CFR §982.308]**

If the tenant and the owner agree to changes in the lease, such changes must be in writing and the owner must immediately give the PHA a copy of the changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA approval of tenancy and execution of a new HAP Contract are not required for changes in the lease. However, under certain circumstances, Voucher assistance in the housing unit shall not be continued, unless the PHA approves a new tenancy, in accordance with program requirements and has executed a new HAP Contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
- Changes in lease provisions governing the term of the lease; and
- The family moves to a new unit, even if the unit is in the same building or complex.

In these cases, if the HCV assistance is to continue, the family must submit a new Request For Tenancy Approval (RFTA) along with a new lease containing the altered terms. A new tenancy must then be approved in accordance with this chapter.

An owner may request a rent increase any time an increase is allowed under the terms of the lease. The owner must give the PHA at least 60 days' notice of any changes in the amount of rent to the owner. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable, according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase or give the family notice in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease. [24 CFR §982.309(a)(3)]

#### **PHA Policy**

When an owner requests a rent increase, HACLB will determine whether AB1482 is applicable, and the requested increase is reasonable as soon as possible. It is HACLB's goal to respond within fifteen (15) business days of receiving the request from the owner. The owner will be notified of the determination in writing.

Missing information, such as the rents currently charged for unassisted units on the premise will delay the review process. HACLB will inform the owner if information needed to review the rent increase request is missing within fifteen(15) business days of receipt of the request.

Rent increases will go into effect on the first of the month following the 60-day period after the owner notifies HACLB of the rent change, or on the date specified by the owner, whichever is later.

## Chapter 10

### MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

#### INTRODUCTION

Freedom of choice is a hallmark of the Housing Choice Voucher (HCV) program. In general, therefore, U.S. Department of Housing and Urban Development (HUD) regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and the policies of the Housing Authority of the City of Long Beach (HACLB) governing moves within or outside HACLB'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 HACLB's HCV program, whether the family moves to another unit within HACLB's jurisdiction or to a unit outside HACLB'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 HACLB's jurisdiction. This part also covers the special responsibilities that HACLB has under portability regulations and procedures.

#### PART I: MOVING WITH CONTINUED ASSISTANCE

##### 10-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease. [24 CFR §982.314(b)(3)]
- If the family terminates the lease on notice to the owner, the family must give the Public Housing Agency (PHA) a copy of the notice at the same time. [24 CFR§982.314(d)(1)]
- The lease for the family's unit was terminated by mutual agreement of the owner and the family. [24 CFR §982.314(b)(1)(ii)]

##### PHA Policy

If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the PHA 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 the PHA a copy of any owner eviction notice. [[24 CFR§982.551\(g\)](#)]
- The family or a member of the family is or has been the victim of domestic violence, dating violence or stalking and the move is needed to protect the health or safety of the family or family member. This condition applies even when the family has moved out of their 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 they were imminently threatened by harm from further violence if they remained in the housing unit. [24 CFR §982.314(b)(4) and [24 CFR §982.353\(b\)](#)]

### PHA Policy

If a family requests permission to move with continued assistance or for an external transfer to another covered housing program operated by the PHA 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, or stalking, the PHA will request that the resident request the emergency transfer using form HUD-5383, and the PHA will request documentation in accordance with section 16-IX.D of this plan.

The PHA 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 and discusses external transfers to other covered housing programs.

- The PHA has terminated the assisted lease for the family's unit for the owner's breach. [24 CFR §982.314(b)(1)(i)]
- The PHA determines that the family's current unit does not meet space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new Voucher and the family and the PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP Contract for the family's old unit in accordance with the HAP Contract terms and must notify both the family and the owner of the termination. The HAP Contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner. [[24 CFR §5.403 \(a\) and \(c\)](#)]

## **10-I.B. RESTRICTIONS ON MOVES [24 CFR §982.1(b)(2)]**

A family's right to move is generally contingent upon the family's compliance with program requirements. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

### **Denial of Moves**

HUD regulations permit PHAs to deny a family permission to move under the following conditions:

#### ***Insufficient Funding* [24 CFR §982.354(e)(1)]**

The PHA may deny a family permission to move either within or outside of the PHA's jurisdiction if the PHA does not have sufficient funding for continued assistance. However, [Notice PIH 2016-09](#) significantly restricts the ability of the PHA to deny permission to move due to insufficient funding and places further requirements on the PHA regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

#### **PHA Policy**

The PHA will deny a family permission to move on grounds that the PHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the PHA; (b) the PHA can demonstrate that the move will, in fact, result in higher subsidy costs (c) the PHA 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 inspection), 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 for portability 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*** [24 CFR §982.314(e)(2)]

The PHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance.

**PHA Policy**

If the PHA has grounds for denying or terminating a family's assistance, the PHA 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.

**Restrictions on Elective Moves** [24 CFR §982.314(c)]

HUD regulations permit PHAs to prohibit any elective move by a participant family during the family's initial lease term. HUD regulations also permit PHAs 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 or stalking and the move is needed to protect the health or safety of the family or family member. (see section 10-I.A)

In addition, PHAs may not establish a policy permitting moves only at reexamination. [[Notice PIH 2012-42](#)]

**PHA Policy**

The PHA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the PHA's jurisdiction or outside it under portability.

The PHA will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the PHA's jurisdiction.

The PHA will consider exceptions to this policy for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency situation over which a family has no control.

In addition, the PHA 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** [[24 CFR §982.354\(d\)\(2\)](#)]

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner. 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. [[Notice PIH 2012-42](#)]

The notices must be in writing. [24 CFR §982.5]

### **Approval**

#### PHA Policy

Upon receipt of a family's notification that they wish to move, HACLB 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. HACLB will notify the family in writing of the determination within fifteen (15) business days following receipt of the family's notification.

### **Reexamination of Family Income and Composition**

#### PHA Policy

For families approved to move to a new unit within the PHA's jurisdiction, the PHA will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of the PHA's jurisdiction under portability, the PHA will follow the policies set forth in Part II of this chapter.

### **Voucher Issuance and Briefing**

#### PHA Policy

For families approved to move to a new unit within the PHA's jurisdiction, a new Voucher will be issued within fifteen (15) business days of PHA's approval to move. A move briefing is required for these families. The PHA will follow the policies set forth in Chapter 5 on Voucher term, extension and expiration. If a family does not locate a new unit within the term of the Voucher (including any extensions), the family may remain in their current unit with continued assistance, if the owner agrees and The PHA approves; otherwise, the family will lose their assistance.

The PHA will follow the policies set forth in Part II of this chapter, for families moving into or out of the PHA's jurisdiction under portability.

**Housing Assistance Payments [24 CFR §982.311(d)]**

When a family moves out of an assisted unit, the PHA may not make any Housing Assistance Payment to the owner for any month after the month the family moves out. The owner may keep the Housing Assistance Payment for the month when the family moves out of the housing unit.

If a family moves from an assisted unit with continued tenant-based assistance, the assisted lease for the new housing 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.

**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 housing unit is located within the jurisdiction of a PHA administering a tenant-based Voucher program. [[24 CFR §982.353\(b\)](#)]

The process by which a family obtains a Voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The first PHA is called the **Initial PHA**. The second PHA 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 their program. Under the first option, the Receiving PHA provides all housing services for the family and bills the Initial PHA for the Housing Assistance Payments and administration fees. Under the second option, the Receiving PHA pays for the family's assistance with their 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 2012-42](#)]

The same PHA commonly acts as the Initial PHA for some families and as the Receiving PHA for others. Each role involves different responsibilities. PHAs follow the rules and policies in section 10-II.B when it is acting as the Initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the Receiving PHA for a family.



## 10-II.B. INITIAL PHA's 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 PHA that serve the area and the family selects the Receiving PHA. The family must inform the Initial PHA which receiving PHA is selected. If the family prefers not to select the Receiving PHA, the Initial PHA will select the Receiving PHA on the family's behalf. [24 CFR §982.255(b)]

Applicant families that are 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*** [[24 CFR §982.353\(c\)](#) and [24 CFR §982.354\(e\)](#)]

Under HUD regulations, most applicant families qualify to lease a unit outside PHA's jurisdiction under portability. However, HUD gives PHAs 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 ten (10) business days of the determination to deny the move.

#### PHA Policy

In determining whether or not to deny an applicant family permission to move under portability because the PHA lacks sufficient funding or has grounds for denying assistance to the family, the initial PHA will follow the policies established in section 10-I.B of this chapter. 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, the initial PHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program.

#### PHA Policy

If neither the head of household nor the spouse/co-head of an applicant family had a legal residence in the PHA's jurisdiction at the time the family's application for assistance was submitted, the family must live in the PHA's jurisdiction with Voucher assistance 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 or stalking. However, any exception to this policy is subject to the approval of the Receiving PHA.

***Participant Families*** [[24 CFR §982.353\(b\)](#)]

The Initial PHA must not provide portable assistance for a participant if a family has moved out of their assisted unit in violation of the lease. The Violence Against Women Act of 2013 (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations, but moved to protect the health or safety of a family member who is or was a victim of domestic violence, dating violence, sexual assault or stalking and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit. [24 CFR 982.353(b)].

**PHA Policy**

The PHA will determine whether a participant family may move out of the PHA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The PHA 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*** [[24 CFR §982.353](#), 24 CFR §982.355 and [[Notice PIH 2012-42](#)] The family must specify the area to which the family wishes to move. 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.

The Initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move. If the applicant family is not income eligible in that area, the Initial PHA must inform the family that it may not move there and receive Voucher assistance.

***Participant Families*** [[24 CFR §982.353\(d\)\(2\)](#) and 24 CFR §982.355(c)(1)]

The income eligibility of a participant family is not re-determined if the family moves to a new jurisdiction under portability.

**Reexamination of Family Income and Composition**

No new reexamination of income and composition is required for an applicant family.

**PHA Policy**

For a participant family approved to move out of its jurisdiction under portability, the PHA generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The PHA 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 PHAs to provide information on portability to all applicant families that qualify to lease a unit outside of the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

### PHA 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 receiving PHA's policies and procedures, including screening, subsidy standards, voucher extension policies, and payment standards.

## **Voucher Issuance and Term** [[24 CFR §982.353\(b\)](#)]

An applicant has no right to portability until after a Voucher is issued. In issuing Vouchers to applicants, the PHA will follow the regulations and procedures set forth in Chapter 5. A new Voucher is not required for portability purposes.

### PHA Policy

For families approved to move under portability, the PHA will issue a new Voucher within fifteen (15) business days of approval to move. The initial Voucher term will be between 90 to 120 calendar days. (see Section 5-II.E)

## **Voucher Extensions and Expiration**

### PHA Policy

HACLB will approve no extensions to a Voucher issued to an applicant or participant family porting out of HACLB's jurisdiction except under the following circumstances: (a) the initial term of the Voucher will expire before the portable family will be issued a Voucher by the Receiving PHA, (b) the family decides to return to the Initial PHA's jurisdiction and search for a unit there or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on Voucher extensions set forth in Chapter 5, section 5-II.E, of this Plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

## **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 email 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. [[Notice PIH 2012-42](#)]

### PHA Policy

The PHA will use email, 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 [24 CFR §982.355(c)]**

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. The Initial PHA must also advise the family how to contact and request assistance from the Receiving PHA.

### PHA Policy

Because the portability process is time-sensitive, The PHA will notify the Receiving PHA by phone, fax or email to expect the family. The PHA will also ask the Receiving PHA to provide the name, fax, email 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 email of the person responsible for processing the billing information.

## **Sending Documentation to the Receiving PHA [24 CFR §982.355 and [Notice PIH 2012-](#)**

[42](#)] The Initial PHA is required to send the Receiving PHA the following documents:

- [Form HUD-52665](#): Family Portability Information, with Part I completed;
- A copy of the family's Voucher;
- 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; and
- Copies of income verifications backing up the Form HUD-50058, including a copy of the family's current EIV data.

#### PHA Policy

In addition to these documents, the PHA will provide the following information, if available, to the receiving PHA:

Social security numbers (SSNs)

Documentation of SSNs for all nonexempt household members whose 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

If applicable, information related to the family's health and medical care and disability assistance expense phased-in hardship exemption, including what stage the family is in and how many months remain in that phase-in stage.

The PHA will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

**Initial Billing Deadline** [[Notice PIH 2012-42](#), Letter to Executive Directors, 9/15/15]

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. 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 must contact the Receiving PHA to determine the status of the family.

If the Receiving PHA reports that the family is not yet under HAP Contract, the Initial PHA may refuse to accept a late billing submission.

If the Receiving PHA reports that the family is under HAP Contract and the Receiving PHA cannot absorb the family, the Initial PHA must accept a late billing submission; however, the Initial PHA may report the Receiving PHA's failure to comply with the deadline to HUD.

**PHA Policy**

The initial PHA's decision as to whether to accept late billing will be based on internal PHA factors, including the initial PHA's leasing or funding status. If the PHA has not received an initial billing notice from the receiving PHA within the billing deadline and does not intend to honor the late billing, 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. In this case, the PHA will send the receiving PHA a written confirmation of its decision by mail.

Among other considerations as to whether to accept late billing will be 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) and [Notice PIH 2012-42](#)]

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.

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. PHAs must manage the HCV program in a manner that ensures the financial ability to provide assistance for families that move under portability and are not absorbed by the Receiving PHA, as well as for families that remain within the PHA's jurisdiction.

#### PHA 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 Form HUD-50058 by the family's annual reexamination date, the Initial PHA should contact the Receiving PHA to verify the status of the family.

### **Denial or Termination of Assistance** [24 CFR §982.355(c)(9)]

If the Initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the Receiving PHA, the Initial PHA may act on those grounds at any time. (see Chapters 3 and 12)

## **10-II.C. RECEIVING PHA's ROLE [24 CFR §982.355]**

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. 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.

Administration of the Voucher must be in accordance with the Receiving PHA's policies. This requirement also applies to 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.

The family's unit or Voucher, size is determined in accordance with the Subsidy Standards of the Receiving PHA and the Receiving PHA's policies on extensions of the Voucher term apply.

### **Responding to Initial PHA's Request**

The Receiving PHA must respond via email or other confirmed delivery method to the Initial PHA's inquiry to determine whether the family's Voucher will be billed or absorbed. If the Receiving PHA informs the Initial PHA that it will be absorbing the Voucher, the Receiving PHA cannot reverse the decision at a later date without consent of the Initial PHA.

#### PHA Policy

The PHA will use email, when possible, to notify the Initial PHA whether it will administer or absorb the family's Voucher.

### **Initial Contact with Family [[Notice PIH 2012-42](#) and 24 CFR §982.355(c)]**

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.

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.

If for any reason the Receiving PHA refuses to provide assistance to a family under portability, the family must be given the opportunity for an Informal Review/Hearing.



**Briefing** [[Notice PIH 2012-42](#)]

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.

**PHA Policy**

The PHA will not require the family to attend a briefing. The PHA will provide the family with a briefing packet (see Chapter 5) and, in an individual briefing, will orally inform the family about the PHA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process. The PHA will suggest that the family attend a full briefing at a later date.

**Income Eligibility and Reexamination** [24 CFR §982.355(c)]

The Receiving PHA does not re-determine eligibility for a portable family that was already receiving assistance in the Initial PHA's Voucher program. If the Receiving PHA opts to conduct a new reexamination for a current participant family, the Receiving PHA may not delay issuing a Voucher or otherwise delay approval of a unit.

**PHA Policy**

A new reexamination of family income and composition will be conducted for family's moving into HACLB's jurisdiction under portability. However, HACLB will not delay issuing a Voucher for this reason. Nor will HACLB delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and HACLB cannot otherwise confirm income eligibility for admission to the HCV program in the area where the unit is located.

In conducting a reexamination, HACLB will rely upon verifications provided by the Initial PHA to the extent that the verifications (a) accurately reflect current circumstances; and (b) were obtained within the last 120 calendar days. Any new information may be verified by documents provided by the family.

**Voucher Issuance** [24 CFR §982.355(c)]

When a family moves into the PHA's jurisdiction under portability, the Receiving PHA is required to issue the family a Voucher. The family must submit a request for tenancy approval to the Receiving PHA during the term of the Receiving PHA's Voucher.

**Timing of Voucher Issuance.** [[Notice PIH 2012-42](#)]

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.

**PHA Policy**

When a family ports into its jurisdiction, the PHA will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with the PHA's procedures. The PHA will update the family's information when verification has been completed.

**Voucher Term** [24 CFR §982.355(c)(13)]

The term of the Receiving PHA's Voucher may not expire before 30 calendar days from the expiration of the Initial PHA's Voucher.

**PHA 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) and [Notice PIH 2012-42](#)]

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. 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 leaves sufficient time to process a request for tenancy approval, execute a HAP Contract and deliver the initial billing to the Initial PHA.

**PHA Policy**

The PHA will generally not extend the voucher term that it issues an incoming portable family, unless the PHA 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 of this plan

The PHA 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 Tenancy Approval to the PHA 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** [[Notice PIH 2012-42](#)]

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.

If an incoming portable family ultimately decides not to lease in the jurisdiction of the Receiving PHA and 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.

**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 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. 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.

**PHA 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 is properly applied.

***Initial Billing Deadline*** [[Notice PIH 2016-09](#)]

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 an initial billing notice ([Form HUD-52665](#), Part II): (a) no later than ten (10) business days following the date the Receiving PHA **executes** a HAP Contract on behalf of the family; **and** (b) in time that the notice will be **received** no later than 90 days following the expiration date of the family's Voucher issued by the Initial PHA. An additional 30 days is permitted, if the delayed billing is due to suspension of the voucher's term.

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 email.

PHA Policy

The PHA will send an initial billing notice by fax or email, if necessary, to meet the billing deadline.

If the Receiving PHA fails to send the initial billing within ten (10) business days following the date the HAP Contract is executed, the family must be absorbed by the Receiving PHA, 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.

***Ongoing Notification Responsibilities*** [[Notice PIH 2011-03](#) and [Form 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.

PHA Policy

The PHA will send its initial billing notice by fax or email, if necessary, to meet the billing deadline but will also send the notice by regular mail.

**Change in Billing Amount.** The Receiving PHA uses [Form HUD-52665](#) to notify the Initial PHA 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; or
- 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 ten (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 ten (10) business days of the effective date of the billing changes, the Initial PHA is not responsible for any increase prior to notification.

***Late Payments*** [Notice PIH 2011-3 and [Notice PIH 2012-42](#)]

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 housing unit in question. A copy of the initial notification and any subsequent correspondence between the PHA 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, and the Initial PHA is still responsible for any outstanding payments due to the Receiving PHA.

***Overpayments*** [[Notice PIH 2012-42](#)]

When 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 overpayments, including 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 2012-42](#).

***Denial or Termination of Assistance*** [[Form HUD-52665](#) and [Notice PIH 2012-42](#)] 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 ten (10) business days following the effective date of the termination of the billing arrangement.

#### PHA Policy

If the PHA elects to deny or terminate assistance for a portable family, the PHA will notify the initial PHA within 10 business days after the informal review or hearing if the denial or termination is upheld. The PHA will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

**Absorbing a Portable Family** [24 CFR §982.355(d)(1) and [Notice PIH 2012-42](#)] 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 the Annual Contributions Contract.

If the Receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the Receiving PHA. [[24 CFR §982.201\(b\)\(2\)\(vii\)](#)]

If the Receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the Initial PHA, HUD encourages the Receiving PHA to provide adequate advance notice to the Initial PHA to avoid having to return an overpayment. The Receiving PHA must specify the effective date of the absorption of the family.

#### PHA Policy

If the PHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the PHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

If the PHA decides to absorb a family after that, it will provide the initial PHA with 30 days' advance notice, but no later than 10 business days following the effective date of the termination of the billing arrangement.

## Chapter 11

### REEXAMINATIONS

#### INTRODUCTION

The Housing Authority of the City of Long Beach (HACLB) 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. U.S. Department of Housing and Urban Development (HUD) regulations and HACLB policies concerning reexaminations are presented in three parts:

Part I: Annual Reexaminations. This part discusses the process for conducting annual reexaminations.

Part II: Interim Reexaminations. This part details the requirements for families to report changes in family income and composition between annual reexaminations.

Part III: Recalculating Family Share and Subsidy Amount. This part discusses the recalculation of family share and subsidy amounts based on the results of annual and interim reexaminations.

Policies governing Reasonable Accommodation, family privacy, required family cooperation and program abuse, as described elsewhere in this Plan, apply to both annual and interim reexaminations.

#### **PART I: ANNUAL REEXAMINATIONS** [[24 CFR §982.516](#)]

##### **11-I.A. OVERVIEW**

Public Housing Agencies (PHAs) 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 is recalculated. This part discusses the schedule for annual reexaminations, the information to be verified and effective dates.



### **11-I.B. SCHEDULING ANNUAL REEXAMINATIONS [HCV GB, page 12-1]**

PHAs must establish a policy to ensure that annual reexaminations are completed *within* a 12-month period and may require reexaminations more frequently

#### PHA Policy

The PHA will begin the annual reexamination process 120 days in advance of its scheduled effective date. Generally, the PHA will schedule annual reexamination effective dates to coincide with the family's anniversary date.

*Anniversary date* is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family moves to a new unit, the PHA will perform a new annual reexamination.

The PHA also may schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

### **Notification of and Participation in the Annual Reexamination Process**

The PHA is required to obtain the information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the PHA. However, the PHA should give tenants who were not provided the opportunity the option to complete [Form HUD-92006](#) at this time. [Notice PIH 2009-36]

#### PHA Policy

Annual reexaminations may be conducted by mail. If so, notification of the annual reexamination will be sent by first-class mail and will inform the family of the information and documentation that must be provided to the PHA and the deadline for providing it. Documents will be accepted by mail 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.

If the notice is returned by the post office with a forwarding address, a notice of termination (see Chapter 12) will be sent to the forwarding address, as well as to any alternate address provided in the family's file.

If a family returns their annual reexamination paperwork by the stated deadline, the paperwork is complete and fully legible and all required documents are returned, the PHA will

complete the annual reexamination without calling the family in for a face-to-face interview.

If a family does not return their annual reexamination paperwork by the stated deadline or the paperwork is returned on time and is either incomplete or illegible, or the family fails to provide all required documentation, the family will be scheduled for a face-to-face interview.

An interview will be scheduled if the family requests assistance in providing information or documentation requested by the PHA. The PHA reserves the right to schedule face-to-face interviews at the PHA's discretion.

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time and location of the interview. In addition, the notice will inform the family of the documentation to bring to the interview.

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 appointment time.

Families that fail to attend two scheduled interviews without the PHA approval will be sent a notice of termination in accordance with Chapter 12 of this Plan.

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 assistance of any such third party.

#### **11-I.C. CONDUCTING ANNUAL REEXAMINATIONS** [[24 CFR §982.551\(b\)](#)]

As part of the annual reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses and composition.

##### PHA Policy

Families will be asked to provide all required information by mail or bring all required information to the reexamination appointment, as described in the reexamination notice.

The required information will include a PHA-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within ten (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), a notice of proposed termination will be sent. (see Chapter 12)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

If adding a new family member to the housing unit causes overcrowding according to space standards (see Chapter 8), the PHA must issue the family a new Voucher and the family and the PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rent by the family, the PHA must terminate the HAP Contract in accordance with its terms. [[24 CFR §5.403](#)]

#### **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 their parents in accordance with PHA 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 receive assistance on their own separately from their parents.

##### **PHA Policy**

During the annual reexamination process, the PHA 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 their 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 their own income or the income of their 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 their own income and the income of their parents (if applicable), the PHA will process a reexamination in accordance with the policies in this chapter.

## **11-I.E. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(c)(2) and Notice PIH 2023-27]**

The PHA 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 the PHA uses a streamlined income determination as indicated in Chapter 7 of this policy. The PHA 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 PHA 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. The PHA 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.

#### PHA Policy

When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with PHA policies in Chapter 7, the above is not applicable. However, where the family disagrees with the PHA or other agency's determination of income or the PHA has other reason to use third-party verification in these circumstances, then the above will apply.

## **11-I.F. EFFECTIVE DATES** [[24 CFR §982.516](#)]

PHAs must establish policies concerning the effective date of changes that result from an annual reexamination.

### PHA Policy

In general, an *increase* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no 30-day notice is required.

If the 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, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the family share of the rent that results from an annual reexamination will take effect on the family's anniversary date.

If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

If the 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 the PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.





## **PART II: INTERIM REEXAMINATIONS** [[24 CFR §982.516](#)]

### **11-II.A. OVERVIEW**

Family circumstances may change throughout the period between annual reexaminations. HUD and PHA policies dictate what kinds of information about changes in family circumstances must be reported and under what circumstances the PHA must process interim reexaminations to reflect those changes. HUD regulations also permit the PHA to conduct interim reexaminations of income or family composition at any time. When an interim reexamination is conducted, only those factors that have changed are verified and adjusted. [HCV GB, page 12-10]

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition changes. The PHA must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and the PHA policies describing what changes families are required to report, what changes families may choose to report and how the PHA will process both the PHA and family-initiated interim reexaminations.

### **11-II.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION**

PHAs must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

#### PHA Policy

All families must report all changes in family and household composition that occur between annual reexaminations within 10 business days of the change.

### **New Family Members Not Requiring Approval** [[24 CFR §982.551\(h\)\(2\)](#)]

The addition of a family member as a result of birth, adoption or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition.

#### PHA Policy

The family must inform the PHA of the birth, adoption or court-awarded custody of a child within 10 business days.

### **New Family and Household Members Requiring Approval** [[24 CFR §982.551\(h\)](#)]

With the exception of children who join the family as a result of birth, adoption or court-awarded custody, a family must request PHA approval to add a new family member or another household member, i.e. live-in aide or foster child.

Although the PHA must verify aspects of program eligibility when any new family member is added, the Streamlining Final Rule removed the requirement that PHAs conduct a reexamination of income whenever a new family member is added. The PHA may state in policy that an income reexamination will be conducted.

If a change in family size causes a violation of space standards (see Chapter 8), the PHA must issue the family a new Voucher and the family and the PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the family's HAP Contract in accordance with its terms. [[24 CFR §5.403](#)]

#### **PHA Policy**

Families must request the PHA approval to add a new family member (*with the exception of members who join the family as a result of birth, adoption, or court-awarded custody*), live-in aide, foster child or foster adult. This includes any person not on the lease who is expected to stay in the housing unit for more than 30 consecutive days or 90 cumulative days within a 12-month period and therefore no longer qualifies as a "guest." Foster children and foster adults may be granted "guest" status for a period not to exceed 90 days. Requests must be made in writing and approved by the PHA prior to the individual moving into the housing unit.

The PHA will not approve the addition of a new family member, unless the individual meets the PHA's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II). The PHA will not approve the addition of a foster child or foster adult if it will cause a violation of space standards.

The PHA will not approve a request to add an entire family unit, two persons or more, to the current household composition. If the head of household adds a spouse or marital-type partner, the PHA will allow the addition of the minor children of that person, upon verification that they will live with the assisted family at least 50% of the time.

The PHA will not approve the addition of a new family member if the amount of HCV assistance provided by the PHA drops to zero. Additional family members will not be approved through the 180 consecutive calendar days that the family may remain with zero HCV assistance (see Chapter 12, Part 1).

For administrative and budgetary reasons, the PHA will only consider one request to add a family member to the household composition on an annual basis. However, a request to add a live-in aide does not bar the family from adding an additional member within the year.

The PHA also may not consider a request to approve the return of a household member that was removed from household composition within the last 12 months. Exceptions may

be granted as a reasonable accommodation or other emergency situation.

If the PHA determines an individual meets the PHA's eligibility criteria and documentation requirements, the PHA will provide written approval to the family.

If the PHA determines that an individual does not meet the eligibility criteria or documentation requirements, the PHA will notify the family in writing of the decision to deny approval of the new family or household member, provide the reasons for the denial and an opportunity for an Informal Review.

The PHA will make the determination within fifteen (15) business days of receiving all information required to verify the individual's eligibility.

**Departure of a Family or Household Member** [\[24 CFR §982.551\(h\)\(3\)\]](#) Families must promptly notify the PHA if any family member no longer lives in the housing unit. Because household members are considered when determining the Voucher size, the PHA also needs to know when any live-in aide, foster child or foster adult ceases to reside in the housing unit.

#### PHA Policy

If a household member ceases to reside in the housing unit, the family must inform the PHA within 10 business days. This requirement also applies to a family member who is considered temporarily absent at the point that the family concludes the individual is permanently absent.

### **11-II.C. CHANGES AFFECTING INCOME OR EXPENSES**

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily or because it was required to do so.

#### **PHA-Initiated Interim Reexaminations**

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. This type of reexamination is not scheduled because of changes reported by the family.

#### PHA Policy

The PHA will conduct interim reexaminations in each of the following instances:

- For families receiving the Earned Income Disallowance (EID), the PHA will conduct an interim reexamination at the start and conclusion of the second 12-month exclusion period (50 percent phase-in period).
- If the family reports zero income, the PHA will conduct an interim reexamination every six (6) months.
- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next twelve (12) months, e.g., seasonal or cyclic income, the PHA

may schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

The PHA may conduct an interim reexamination at any time in order to correct an error in a previous reexamination or to investigate a tenant fraud complaint.

### **Family-Initiated Interim Reexaminations** [[24 CFR §982.516](#)]

PHAs must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination.

### ***Required Reporting***

HUD regulations give PHAs the freedom to determine the circumstances under which families will be required to report changes affecting income.

#### PHA Policy

Zero income families are required to report all increases in income and new income sources, including new employment, within ten (10) business days of the date the change takes effect.

Families other than zero-income families are required to report all increases in income, including new employment, within ten (10) business days of the date the change takes effect.

The PHA will only conduct interim reexaminations for families that qualify for the Earned Income Disallowance (EID) and only when the family's share of rent will change as a result of the increase. In all other cases, the PHA will note the information in the tenant file and will not conduct an interim reexamination.

Families are not required to report any other changes in income or expenses.

### ***Optional Reporting*** [[24 CFR §982.516\(b\)\(2\)](#) and HCV GB, page 12-9]

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination. PHAs must process the request, if the family reports a change that will result in a reduction.

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced. [see Chapter 6 and 24 CFR §5.615]

#### PHA Policy

If a family reports a change that was not required that would result in an increase in the family share of the rent, the PHA will note the information in the tenant file and will not conduct an interim reexamination.

If a family reports a change that was not required that would result in a decrease in

the family share of rent, the PHA will conduct an interim reexamination. (see Section 11-II.D for effective dates)

If a Family Self-Sufficiency (FSS) participant requests an interim reexamination for changes that would positively impact their FSS escrow, the PHA will process the reexamination.

## 11-II.D. PROCESSING THE INTERIM REEXAMINATION

### Method of Reporting

#### PHA Policy

The family may notify the PHA of changes either orally or in writing. If the family provides oral notice, the PHA will also require the family to submit the changes in writing.

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.

Based on the type of change reported, the PHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the PHA. This time frame may be extended for good cause with PHA approval. The PHA will accept required documentation by mail, by email, by fax, or in person.

#### **Effective Dates** [HCV GB, page 12-10 and [24 CFR §982.516\(d\)](#)]

PHAs must establish the time frames in which any changes that result from an interim reexamination will take effect. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent and whether the family reported any required information within the required time frames

#### PHA Policy

##### **If the family share of the rent is to *increase*:**

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.

##### **If the family share of the rent is to *decrease*:**

The decrease will be effective on the first day of the month following the month in which the change was reported, and all required documentation was submitted. In cases when the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

## PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

### 11-III.A. OVERVIEW [[24 CFR §982.516\(d\)\(2\)](#) and HCV GB 12-6 and 12-10]

After gathering and verifying required information for an annual or interim reexamination, the PHA must recalculate the family share of the rent and the subsidy amount and notify the family and owner of the changes. While the basic policies that govern calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

### 11-III.B. PAYMENT STANDARDS AND UTILITY ALLOWANCES CHANGES

In order to calculate the family share of the rent and HAP amount correctly, changes in Payment Standards, Subsidy Standards or Utility Allowances may need to be updated and included in the PHA's calculations.

#### Payment Standards [[24 CFR §982.505](#) and HCV GB, page 12-5]

The family share of the rent and HAP calculations must use the correct Payment Standard, taking into consideration the family unit size, the size of unit and the area in which the housing unit is located. (see Chapter 6 for information on how to select the appropriate Payment Standard)

When the PHA changes the Payment Standards or the family's situation changes, new Payment Standards are applied at the following times:

- If the PHA's Payment Standard 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 new Payment Standard will be applied at the *first annual* reexamination following the effective date of the increase in the Payment Standard.
  - If the Payment Standard amount has *decreased*, the new Payment Standard will be applied at the *second annual* reexamination following the effective date of the decrease in the Payment Standard.
- If the family moves to a new unit or a new HAP Contract is executed due to changes in the lease, even if the family remains in place, the current applicable Payment Standard will be used when the new HAP Contract is processed.

#### Subsidy Standards [[24 CFR §982.505\(c\)\(4\)](#)]

If there is a change in the family unit size that would apply to a family during the HAP Contract term, either due to a change in family composition or a change in the PHA's Subsidy Standards (see Chapter 5), the new family unit size must be used to determine the Payment Standard amount for the family at the family's *first annual* reexamination following the change in family unit size.

**Utility Allowances** [[24 CFR §982.517\(d\)](#) and HCV GB, page 12-5]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner or in the PHA's Utility Allowance Schedule. When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP Contract are executed. (Chapter 16 discusses how Utility Allowance Schedules are established)

HCV regulations require PHAs to use the appropriate utility allowance for the lesser of the size of dwelling unit actually leased by the family or the Voucher size issued, as determined under the PHA subsidy standards. In cases when a reasonable accommodation is provided to a family that includes a person with disabilities, the PHA must use the appropriate utility allowance for the size of the dwelling unit actually leased by the family. [[Notice PIH 2016-05](#)]

At annual reexamination, the PHA must use the current Utility Allowance Schedule.

**PHA Policy**

Revised Utility Allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted. [HCV GB, p. 18-9].

**11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT**

PHAs 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, page 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; and
- The amount and effective date of the new tenant rent to owner.

Families must be given an opportunity for an Informal Hearing regarding a PHA's determination of 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).

**PHA Policy**

The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment.

The notice will state the family has the right to request an explanation of how the assistance was calculated and if the family disagrees, they have the right to informal hearing. The notice will include the procedures for requesting an informal hearing.

**11-III.D. DISCREPANCIES**

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error or that the family intentionally misrepresented information. In addition, the PHA may discover errors made by the PHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made in accordance with the policies in Chapter 13.



## Chapter 12

### TERMINATION OF ASSISTANCE AND TENANCY

#### INTRODUCTION

The U.S. Department of Housing and Urban Development (HUD) regulations specify the reasons for which the Housing Authority of the City of Long Beach (HACLB) can terminate a family's assistance and the ways in which such terminations must take place. The regulations also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy and termination by HACLB based on the family's behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that HACLB may consider in lieu of termination, the criteria HACLB must use when deciding what action to take and the steps HACLB must take when terminating a family's assistance.

Part III: Termination of Tenancy by the owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

#### PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

##### 12-I.A. OVERVIEW

HUD requires Public Housing Agencies (PHAs) to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits PHAs to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving Housing Choice Voucher (HCV) program assistance at any time by notifying the PHA.

##### 12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR §982.455]

As a family's income increases, the amount of the PHA's subsidy goes down. If the amount of HCV assistance provided by the PHA drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

##### 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.

## **12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE**

The family may request that the PHA terminate the family's assistance at any time.

### PHA Policy

The request to terminate assistance should be made in writing and signed by the head of household, and spouse or cohead if applicable. Before terminating the family's assistance, the PHA will follow the notice requirements in Section 12-II.F.

## **12-I.D. MANDATORY TERMINATION OF ASSISTANCE**

HUD requires PHAs to terminate assistance in the following circumstances.

**Eviction** [[24 CFR §982.552\(b\)\(2\)](#) and [Subpart L §5.2005\(c\)\(1\)](#)]

PHAs must terminate assistance when 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 or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

### PHA Policy

A family will be considered *evicted* if the family moves after a legal eviction order or unconditional judgment is issued, whether or not physical enforcement of the order was necessary.

A family will not be considered to have been evicted if a stipulated judgement or settlement agreement is entered into with the owner. Additionally, HACLB will not consider the family to have been evicted, even if the family vacates the unit.

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. In such cases the PHA will determine whether the family committed serious or repeated violations of the based on available evidence and may terminate assistance or take any of the alternative measures described in section 12-II.C. In making its decision the PHA will consider the factors described in sections 12-II. D and 12-II.E. Upon consideration of such alternative and factors, the PHA 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 criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

**Failure to Provide Consent** [[24 CFR §982.552\(b\)\(3\)](#)]

PHAs must terminate assistance if any family member fails to sign and submit any consent form that is required for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

**Failure to Document Citizenship** [[24 CFR §982.552\(b\)\(4\)](#) and 24 CFR §5.514(c)] PHAs 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 and the U.S. Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or
- (3) a family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the housing 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 when the family's assistance is prorated. (see Chapter 7)

**Failure to Disclose Social Security Numbers** [24 CFR §5.218, [Notice PIH 2018-24](#)] The PHA 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.

PHA Policy

The PHA 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\(b\)\(1\)\(ii\)](#)] PHAs 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 the 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 the 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 their parents in an assisted household and is not a person with disabilities receiving HCV assistance as of November 30, 2005, PHAs 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 must be issued a Voucher to move with continued assistance, in accordance with program regulations and the PHA policies or may 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] PHAs must immediately terminate program assistance for deceased single member households. The owner is not entitled to HAP for any month following the month in which the death occurred.

## **12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS**

**Mandatory Policies** [[24 CFR §982.553\(b\)](#) and [24 CFR §982.551\(l\)](#)]

HUD requires PHAs to establish policies that permit a PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug or has a pattern of illegal drug use that interferes with the health, safety or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

## ***Use of Illegal Drugs and Alcohol Abuse***

### **PHA Policy**

The PHA will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug or has a pattern of illegal drug use that interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.

The PHA 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 three months.

The PHA 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 sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA 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.

**PHA Policy**

The PHA will terminate a family’s assistance if any household member has violated the family’s obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The PHA 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 sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the PHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

## **Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), 24 CFR 5.2005(c), 24 CFR 984.101(d)]**

HUD permits PHAs to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12- II.E, the Violence Against Women Reauthorization Act of 2013 (VAWA) explicitly prohibits PHAs from considering incidents of or criminal activity directly related to, domestic violence, dating violence or stalking as reasons for terminating the assistance of a victim of such abuse.

Additionally, per 24 CFR 984.101(d), PHAs are no longer permitted to terminate assistance to a family due to the family's failure to meet its obligations under the Family Self-Sufficiency (FSS) contract of participation.

### PHA Policy

HACLB **will not** terminate a family's assistance because of the family's failure to meet obligations under the Family Self-Sufficiency program. HACLB **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)
- Any family member has been evicted from federally-assisted housing in the last three (3) 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 [United States Housing Act of 1937](#).
- 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 HACLB.
- A family member has engaged in or threatened violent or abusive behavior toward HACLB personnel.
- *Abusive or violent behavior towards HACLB 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 the decision to terminate assistance, HACLB will consider alternatives and other factors, as described in Section 12-II.C through E. Upon consideration of such alternatives and factors, HACLB 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 housing unit for brief periods. PHAs 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 housing 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 housing unit.

**PHA Policy**

If the family is absent from the housing unit for more than 60 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F. A family may request an exception in writing and provide documentation as to why the exception should be granted.

HACLB will review the documentation and may grant an exception on a case-by-case basis. In no case will HACLB grant an exception for an absence from the housing unit for more than 180 consecutive calendar days.

***Insufficient Funding*** [[24 CFR §982.454](#)]

PHAs may terminate HAP Contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

**PHA Policy**

HACLB will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If HACLB determines there is a shortage of funding, prior to terminating any HAP Contracts, HACLB will determine if any other actions can be taken to reduce program costs.

In the event that HACLB decides to stop issuing Vouchers as a result of a funding shortfall and HACLB is not assisting the required number of Special Purpose Vouchers (NED families and HUD-Veterans Affairs Supportive Housing (VASH) families and family unification program (FUP) families), when HACLB resumes issuing Vouchers, HACLB will issue Vouchers first to the Special Purpose Voucher families on the 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, HACLB will terminate HAP Contracts as a last resort.

Prior to terminating any HAP Contracts, HACLB will inform the local HUD field office. HACLB will terminate the minimum number needed in order to reduce HAP costs to a level within HACLB's annual budget authority.

If HACLB must terminate HAP Contracts due to insufficient funding, HACLB will do so



in accordance with the following criteria and instructions:

Families who have been assisted in the HCV program the longest will be the first to be terminated, excluding families that include elderly or disabled family members. 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.

Families that have been on the program the longest will be the first families terminated for insufficient funding. However, HACLB will not terminate elderly, near-elderly or disabled families.



## **PART II: APPROACH TO TERMINATION OF ASSISTANCE**

### **12-II.A. OVERVIEW**

PHAs are required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give PHAs the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions PHAs may choose to take when it has discretion and outlines the criteria PHAs use to make the decision about, whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

### **12-II.B. METHOD OF TERMINATION** [[24 CFR §982.552\(a\)\(3\)](#)]

The way in which PHAs terminate assistance depends upon individual circumstances. HUD permits PHAs to terminate assistance by:

- Terminating Housing Assistance Payments under a current HAP Contract,
- Refusing to approve a request for tenancy or to enter into a new HAP Contract or
- Refusing to process a request for or to provide assistance under portability.

### **12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE**

#### **Change in Household Composition** [[24 CFR §982.552\(c\)\(2\)\(ii\)](#)]

As a condition of continued assistance, the PHA may require that a household member who participated in or was responsible for an offense no longer resides in the unit.

##### PHA 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 PHA request.

#### **Repayment of Family Debts**

##### PHA Policy

If a family owes amounts to the PHA, as a condition of continued assistance, the PHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the PHA of the amount owed. See Chapter 16 for policies on repayment agreements.

## 12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

### **Evidence** [24 CFR §982.553(c)]

For criminal activity, HUD permits PHAs 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.

#### PHA Policy

The PHA 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)]

PHAs are permitted to consider all relevant circumstances when determining whether a family's assistance should be terminated.

#### PHA Policy

The PHA will consider the following factors when making the decision to terminate assistance:

The seriousness of the case, especially with respect to how it would affect other residents;

The effects that termination of assistance may have on other members of the family who were not involved in the action or failure;

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or a victim of domestic violence, dating violence or stalking; (discussed further in section 12-II.E)

The length of time since the violation occurred, 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 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;

HACLB 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 Accommodations** [[24 CFR §982.552\(c\)\(2\)\(iv\)](#)]

If the family includes a person with disabilities, the PHA's decision to terminate HCV assistance is subject to consideration of Reasonable Accommodation, in accordance with 24 CFR Part 8.

#### **PHA Policy**

If a family indicates that the behavior of a family member with a disability is the reason for

a proposed termination of assistance, the PHA will determine whether the behavior is related to the disability. If so, upon the family's request, the PHA will determine whether alternative measures are appropriate as a reasonable accommodation. The PHA 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 or STALKING**

This section describes the protections against termination of assistance that the Violence Against Women Reauthorization Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, sexual assault and stalking. 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.)

First, VAWA provides that the 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 or stalking and who reasonably believed they were imminently threatened by harm from further violence if they remained in the housing unit. [[24 CFR§982.354\(b\)\(4\)](#)]

Second, VAWA provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking 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. [[24 CFR §5.2005\(c\)\(1\)](#)]

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault or stalking 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 or stalking. [[24 CFR §5.2005\(c\)\(2\)](#)]

Fourth, it gives HACLB 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)]

## **Limitations on VAWA Protections** [[24 CFR §5.2005\(d\) and \(e\)](#)]

VAWA does not limit the authority of the PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault or stalking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants.

Likewise, VAWA does not limit the PHA's authority to terminate the assistance of a victim of domestic violence, dating violence, sexual assault or stalking, 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.

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. 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 the 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\(d\)\(3\)](#)]

### PHA Policy

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to the property where the participant's unit is located, the PHA 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, sexual assault, or stalking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within an immediate time frame

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 or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest the PHA's determination that they are an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

## **Documentation of Abuse** [[24 CFR Part 5, Subpart L, §5.2007](#)]

### **PHA Policy**

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, the PHA will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX.D of this plan.

The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the PHA will document the waiver in the individual's file.

### **Terminating the Assistance of a Domestic Violence Perpetrator**

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives PHAs 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”. [24 CFR §5.2009(a)]

This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state or federal law regarding termination of assistance. This means that the PHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family. [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs]

### **PHA Policy**

The PHA will terminate assistance to a family member if the PHA 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, the PHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the PHA by the victim in accordance with this section and section 16-IX.D. The PHA will also consider the factors in section 12-II.D. Upon such consideration, the PHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the PHA 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.





## **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, it is a good business practice to provide written notification to both owner and family any time assistance will terminate, whether voluntarily or involuntarily.

### PHA 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 and form HUD-5380 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 their 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 the PHA notice requirements discussed in section 16-III.C of this Plan. VAWA 2013 expands notification requirements to require the PHA to provide notice of VAWA rights and form HUD-5380 and HUD-5382 when the PHA terminates a household's housing benefits.

### PHA Policy

Whenever HACLB decides to terminate a family's assistance because of the family's action or failure to act, HACLB will include the VAWA information described in section 16-IX.C of this Plan and Form HUD-5380 and HUD-5382 with the termination notice. HACLB will request in writing that a family member wishing to claim VAWA protection notify HACLB within ten (10) business days.

Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, a copy of the record must accompany (or precede) the termination notice and a copy of the record must also be provided to the subject of the record; and [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; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

### **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] 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 or stalking and the victim is protected from eviction by the Violence Against Women Reauthorization Act of 2013. (see section 12-II.E) A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the PHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

#### **Violation of Federal, State or Local Law**

The owner is permitted to terminate the tenancy if a family member violates federal, state or local law that imposes obligations in connection with the occupancy or use of the premises.

#### **Criminal Activity or Alcohol Abuse**

The owner may terminate tenancy during the term of the lease if any *covered person*—meaning any member of the household, a guest or another person under the tenant's control—commits any of the following types of criminal activity:

(for applicable definitions, see [24 CFR §5.100](#))

- Any criminal activity that threatens the health or safety of or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises)
- Any criminal activity that threatens the health or safety of or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises
- Any violent criminal activity on or near the premises
- Any drug-related criminal activity on or near the premises

However, in the case of criminal activity directly related to domestic violence, dating violence or stalking, if the tenant or an immediate member of the tenant's family 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 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.

### **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 housing 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 housing 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, e.g. sale of the property, renovation of the housing unit or desire to lease the housing 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-f) and Form HUD-52641-A]

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, 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 housing unit by instituting court action.

The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice. (see Chapter 5)

#### PHA Policy

If the eviction action is finalized in court, the owner must provide the PHA 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, when that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully (42 U.S.C. §13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR §5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence or stalking is limited by the Violence Against Women Reauthorization Act of 2013 (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 the PHA has no other grounds for termination of assistance, the PHA may issue a new Voucher so that the family can move with continued assistance. (see Chapter 10)

## EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

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

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

### PHA Policy

Damages beyond ordinary wear and tear will be considered to be damages which could be assessed against the security deposit under state law or in court practice.

- The family must allow the PHA to inspect the housing 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.

### PHA Policy

HACLB 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* include, but are not be limited to, non- payment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the housing unit or premises and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of or criminal activity related to, domestic violence, dating violence or stalking will not be construed as serious or repeated lease violations. [24 CFR §5.2005(c)(1)]

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

### PHA Policy

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

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

#### PHA Policy

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

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

#### PHA Policy

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

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

#### PHA Policy

Notice is required under this provision only when all family members will be absent from the housing unit for an extended period. An extended period is defined as any period greater than sixty (60) calendar days. Written notice must be provided to HACLB 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 housing unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).



- Family members must not commit fraud, bribery or any other corrupt or criminal act in connection with the program. (see Chapter 14, Program Integrity for additional information)
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. (see Chapter 12 for HUD and PHA policies related to drug- related and violent criminal activity)
- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and PHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the housing unit, notwithstanding such relationship, would provide Reasonable Accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]

## Chapter 13

### OWNERS

#### INTRODUCTION

Owners play a central role in the Housing Choice Voucher (HCV) program by supplying decent, safe and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV Program. [[24 CFR §982.4\(b\)](#)] The term “owner” includes a principal or other interested party [24 CFR §982.453; [24 CFR §982.306\(f\)](#)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease and complying with various contractual obligations. However, this chapter is not meant to be an overview of all aspects of owner participation in the HCV program.

The Chapter is organized in two parts:

Part I: owners in the HCV program. This part discusses the role of an owner in the HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP Contract and the relationship between the Housing Authority of the City of Long Beach (HACLB) and the owner, as expressed in the HAP Contract.

For detailed information about the HCV program, including Public Housing Agencies (PHA) policies in key areas, owners will need to refer to several other chapters in this Plan. Where appropriate, references are provided in this Chapter.



## **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 the PHA's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHAB to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, the PHA must identify and recruit new owners to participate in the program.

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.

#### **PHA Policy**

The PHA will conduct owner outreach to ensure that owners are familiar with the HCV program and its advantages. HACLB 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
- 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, PHAs must also provide the kind of customer service that will encourage participating owners to remain active in the program.

### PHA Policy

All HACLB 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. HACLB will provide all owners with an orientation session and newsletter publication to learn ways to maximize their revenue and support tenants. HACLB will provide all owners with a white glove customer service experience to help them succeed through activities such as:

- Providing the owner direct contact with an owner specialist to assist them in navigating the program and supporting their tenants.

- Coordinating inspection and leasing activities between HACLB, the owner and the family.

- 24-hour access to an owner portal that will allow them to see all their tenants, inspection dates and outcomes, request rent increase and contact staff.

- Providing other written information about how the program operates through a landlord presentation; 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 PHAs to aid families in their housing search by providing the family with a list of property owners or other parties known to the PHA who may be willing to lease a unit to the family or to help the family find a unit. Although PHAs cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit. [[24 CFR §982.301\(b\)\(11\)](#)]

#### PHA 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 may list their property on [www.affordablehousing.com](http://www.affordablehousing.com) or contact an Owner Specialist to assist in listing and sharing the available unit with staff.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential tenant. The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See Chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must complete a [Form HUD-52517](#) Request For Tenancy Approval (RFTA), which constitutes the family's request for assistance in the specified unit and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the housing unit. Also, submitted with the RFTA is a copy of the owner's proposed lease, including the HUD- required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate that an assisted tenancy can be approved only under certain conditions.

The owner must be qualified to participate in the program. [[24 CFR §982.306](#)] Some owners are precluded from participating in the program or from renting to a particular family, either because of their past history with this or another federal housing program or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program. [[24 CFR §982.305\(a\)](#) and [24 CFR §5.508](#)] Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. In addition, the owner must document legal ownership of the unit. (see Chapter 9)

The selected unit must meet HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) and/or equivalent state or local standards approved by HUD. [[24 CFR §982.305\(a\)](#)] The PHA will inspect the owner's dwelling unit at various stages of HCV program participation, to ensure that the housing unit continues to meet inspection requirements. See Chapter 8 for a discussion of NSPIRE standards and policies for inspections at initial lease-up and throughout the family's tenancy.



PHAs must determine that the cost of the housing unit is reasonable. [[24 CFR§982.305\(a\)](#)] The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. (see Chapter 8 for policies on rent reasonableness, rent comparability and the rent reasonableness determination process.)

At initial lease-up of a unit, the PHA must determine that the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income. [[24 CFR §982.305\(a\)](#) and [24 CFR §5.508](#)] (see Chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.)

The lease must comply with all program requirements. [24 CFR §982.308] Owners are encouraged to use their standard lease when renting to an assisted family. However, the HCV program requires that the Tenancy Addendum, which helps standardize the tenancy requirements for all assisted families, be added word-for-word to that lease. See Chapter 9 for a discussion of the lease and Tenancy Addendum, including lease terms and provisions. The PHA and the owner enter into a formal contractual relationship by executing the Housing Assistance Payment (HAP) Contract (Form HUD- 52641). The HAP Contract format is prescribed by HUD. See Chapter 9 for a discussion of the HAP Contract execution process. Specific HAP Contract provisions and responsibilities are discussed in Chapter 13, Part II.



### **13-I.C. OWNER RESPONSIBILITIES [24 CFR §982.452]**

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Performing all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease;
- Performing all management and rental functions for the assisted unit, including selecting a Voucher-holder to lease the housing unit and deciding if the family is suitable for tenancy of the housing unit;
- Maintaining the housing unit in accordance with the National Standards for the Physical Inspection of Real Estate (NSPIRE), including performance of ordinary and extraordinary maintenance;
- Complying with equal opportunity requirements;
- Preparing and furnishing to the PHA information required under the HAP Contract;
- Collecting from the family any security deposit, the tenant's contribution to rent (that part of rent to owner not covered by the Housing Assistance Payment from the PHA) and any charges for unit damage by the family;
- Enforcing tenant obligations under the lease;
- Paying for utilities and services (unless paid by the family under the lease);
- Making modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203];
- Complying with the Violence Against Women Reauthorization Act's [Final Rule: Violence Against Women Reauthorization Act of 2013 \(VAWA\)](#) when screening prospective HCV tenants or terminating tenancy of an HCV family ([24 CFR, Subtitle A, Part 5, Subpart L](#); 24 CFR §982.310(h)(4); and 24 CFR §982.452(b)(1)).

### **13-I.D. OWNER QUALIFICATIONS** [[24 CFR §982.306\(e\)](#)]

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of instances when PHAs 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.

#### **Owners Barred from Participation** [[24 CFR §982.306\(a\) and \(b\)](#)]

PHAs must not approve the assisted tenancy if the PHA is informed that the owner is debarred, suspended or subject to a limited denial of participation under 24 CFR part

24. HUD may direct the PHA to 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\(d\)](#) and HCV GB, page 11-2]

PHAs must not approve an RFTA if the owner is the parent, child, grandparent, grandchild, sister or brother of any member of the family. The PHA may make an exception as a Reasonable Accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, however, any new leases or contracts for these families may not be approved.

#### **Conflict of Interest** [24 CFR §982.161 HCV GB p. 8-19; Form HUD-52641, Section 13]

PHAs must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the PHA (except a participant commissioner);
- Any employee of the PHA or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs;
- Any public official, member of a governing body or State or local legislator, who exercises functions or responsibilities with respect to the programs;
- Any member of the Congress of the United States.

Such “covered individual” may not have any direct or indirect interest in the HAP contract or in any benefits or payments under the contract (including the interest of an immediate family member of such covered individual) while such person is a covered individual or for one year thereafter.

*Immediate family member* means the spouse, parent (including a stepparent), child (including a stepchild), grandparent, grandchild, sister, or brother (including a stepsister or stepbrother) of any covered individual.

HUD may waive the conflict-of-interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the PHA must include: [HCV GB, pages 11-2 thru 3]

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP Contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the PHA or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of their duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the PHA or HCV assistance for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

When the PHA has requested a conflict-of-interest waiver, the PHA may not execute the HAP Contract until HUD has made a decision on the waiver request.

#### PHA Policy

In considering whether to request a conflict-of-interest waiver from HUD, HACLB will consider:

- the reasons for waiving the requirement;
- consistency with state and local laws;
- the existence of alternative housing available to families;
- the individual circumstances of a particular family;
- the specific duties of individuals whose positions present a possible conflict of interest;
- the nature of any financial investment in the property and plans for disclosure/divestiture; and
- the possible appearance of impropriety.

## **Owner Actions That May Result in Disapproval of a Tenancy Request** [[24 CFR §982.306\(c\)](#)]

HUD regulations permit PHAs, at the PHA's discretion, to refuse to approve a request for tenancy if the owner has committed any of a number of different actions.

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP Contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP Contract for those units. [HCV GB, page 11-4]

### PHA Policy

HACLB may refuse to approve a request for tenancy, if HACLB becomes aware that any of the following are true:

- The owner has violated obligations under a HAP Contract under Section 8 of the [United States Housing Act of 1937](#) (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 inspection standards 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 or employees of HACLB 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; or

The owner has a history or practice of renting units that fail to meet state or local housing codes.

In considering whether to disapprove owners for any of the discretionary reasons listed above, HACLB 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, HACLB may, on a case-by-case basis, choose to approve an owner.

### **Disapproval of Owners/Participation Restrictions**

Each violation merits the full penalty for each violation. For example, if an Owner collects excess rent from two Families, the restriction is four years. If the violation can be cured and circumstances justify leniency, HACLB issues the Owner an oral and written warning.

<b>Breach</b>	<b>Penalty</b>
Unapproved charges for services or amenities.	1 year
Permitted an unauthorized occupant.	1 year
Non-compliant eviction - Second Violation.	1 year
Falsification of rent comparable for a housing unit in same building.	1 year
Unapproved agreements with onerous or prohibited provisions.	1 year
Collected excess rent.	2 years
Collected HAP for a housing unit not occupied by participant.	2 years
Violation of tenant rights/issuance of false eviction notices	2 years
Engaged in drug-trafficking	5 years
Three or more abatements over a twelve-month period or during one HAP Contract term for serious deficiencies	5 years
Failure to provide Owner-supplied utilities or services.	5 years
Fraudulent Claim.	5 years
Discrimination in provision of services or violation of Fair Housing rules.	10 years
Commission of fraud, bribery or any other corrupt or criminal act in connection with a federal housing program.	10 years
HUD debarment/suspension	Restricted Until Reinstated

### **Legal Ownership of Unit**

The following represents PHA Policy on legal ownership of a dwelling unit to be assisted under the HCV program.

#### PHA Policy

The PHA will only enter into a contractual relationship with the legal owner of a qualified unit. No tenancy will be approved without acceptable documentation of legal ownership (e.g., deed of trust, proof of taxes for most recent year).

### **13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]**

The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status or disability, in connection with any actions or responsibilities under the HCV program and the HAP Contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP Contract with the PHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

## **PART II. HAP CONTRACTS**

### **13-II.A. OVERVIEW**

The HAP Contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the PHA's obligations. Under the HAP Contract, the PHA agrees to make Housing Assistance Payments to the owner on behalf of a specific family occupying a specific unit.

The HAP Contract is used for all HCV tenant-based program tenancies except for assistance under the Section 8 Homeownership program and assistance to families that own a manufactured home and lease the space. See Chapter 15 for a discussion of any Special Housing types included in the PHA's HCV program.

If the PHA has given approval for the family of the assisted tenancy, the owner and the PHA execute the HAP Contract. See Chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP Contract.

### **13-II.B. HAP CONTRACT CONTENTS**

The HAP Contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641. The HAP Contract contains three parts.

Part A of the contract includes basic contract information about the name of the family, address of the contract unit, names of all household members, initial lease term, amount of initial monthly rent to owner, amount of initial Housing Assistance Payment, utilities and appliances to be supplied by owner and tenant, and the PHA and owner signatures. [HCV Guidebook, pp 11-10 and 11-11]

In general, the HAP Contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP Contract which prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. PHA Policy on the amount of security deposit an owner may collect is found in Chapter 9.

In addition, PHAs have the discretion to add language to Part A of the HAP Contract that defines when the Housing Assistance Payment by the PHA is deemed received by the owner, e.g. upon mailing by the PHA or actual receipt by the owner.

#### **PHA Policy**

The PHA has not adopted a policy that defines when the housing assistance payment by the PHA is deemed received by the owner. Therefore, no modifications to the HAP contract will be necessary.



Part B is the body of the HAP Contract describes 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
- Information on 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 HAP Contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The owner must sign the HUD Tenancy Addendum with the prospective tenant and the tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

## **13-II.C. HAP CONTRACT PAYMENTS**

### **General**

During the term of the HAP Contract and subject to the provisions of the HAP Contract, the PHA must make monthly HAP payments to the owner on behalf of the family at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6 and is subject to change during the term of the HAP Contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment. HAP payments can be made only during the lease term and only while the family is residing in the housing unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant, plus the HAP payment, should be equal to the rent specified in the lease (the rent to owner).

The family is not responsible for payment of the HAP payment and the PHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the total rent to the owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum. [24 CFR §982.451(b)(4)] The owner may not charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises. [24 CFR §982.510(c)] (see Chapter 9 for a discussion of separate, non- lease agreements for services, appliances and other items that are not included in the lease)

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. (see Chapter 16 for additional detail on owner reimbursement of HAP overpayments)

### **Owner Certification of Compliance [HAP Contract – Form HUD-52641]**

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.

By accepting the monthly check from the PHA, the owner certifies to compliance with the terms of the HAP Contract. This includes certification that:

- The owner is maintaining the housing unit and premises in accordance with NSPIRE standards;
- The contract unit is leased to the tenant family;
- To the best of the owner's knowledge, the family resides in the housing 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
- The owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

### **Late HAP Payments [24 CFR §982.451(a)(5)]**

The PHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP Contract. After the first two calendar months of the HAP Contract term, the HAP Contract provides for penalties if the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if: 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent. The PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA's control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP Contract. [HCV GB, page 11-7]

### **Termination of HAP Payments [24 CFR §982.311(b)]**

The PHA must continue making Housing Assistance Payments to the owner in accordance with the HAP Contract as long as the tenant continues to occupy the housing 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 housing unit, the PHA must continue to make Housing Assistance Payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

#### PHA Policy

The owner must inform the PHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the PHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant and provide the PHA with a copy of such judgment or determination.

After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, the PHA will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform the PHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.



### **13-II.D. BREACH OF HAP CONTRACT [24 CFR §982.453]**

Any of the following actions by the owner constitutes a breach of the HAP Contract:

- If the owner violates any obligations under the HAP Contract including failure to maintain the housing unit in accordance with NSPIRE standards;
- If the owner has violated any obligation under any other HAP Contract under the HCV program;
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulations for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan;
- If the owner has engaged in drug-related criminal activity; and
- If the owner has committed any violent criminal activity.

If the PHA determines that a breach of the HAP Contract has occurred, it may exercise any of its rights and remedies under the HAP Contract.

The PHA's rights and remedies against the owner under the HAP Contract include recovery of any HAP overpayment, suspension of Housing Assistance Payments, abatement or reduction of the Housing Assistance Payment, termination of the payment or termination the HAP Contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of the determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in Housing Assistance Payments or the termination of the HAP Contract.

#### **PHA Policy**

Before the PHA invokes a remedy against an owner, the PHA will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the PHA will conduct an audit of the owner's records pertaining to the tenancy or unit.

If it is determined that the owner has breached the contract, the PHA 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** [HCV GB, Chapter 11, page and 11-4 -[Chapter 5, page 5-3](#)]

The term of the HAP Contract runs concurrently with the term of the 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:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP Contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the Housing Assistance Payment for the month when the family moves out of the housing unit;
- 180 calendar days have elapsed since the PHA made the last Housing Assistance Payment to the owner;
- The family is absent from the housing unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires
- The PHA elects to terminate the HAP Contract.

#### PHA Policy

The PHA 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 size requirements due to change in family composition [24 CFR 982.403] – see Chapter 8;

The unit does not meet NSPIRE standards [24 CFR 982.404] – see Chapter 8;

The family breaks up [HUD Form 52641] – see Chapter 3;

The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the PHA terminates the HAP Contract, the PHA 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, Chapter 15, page 15-4]

#### PHA Policy

In all cases, 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 owner is not entitled to any Housing Assistance Payment (HAP) after this period and must return 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, page 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 the old unit. This is not considered a duplicative subsidy. [[HCV GB, page 8-22](#)]

### **13-II.F. OWNERSHIP CHANGES/ASSIGNMENT OF HAP CONTRACT**

The HAP Contract [Form HUD-52641] cannot be assigned to a new owner, without prior written consent from the PHA. An owner under a HAP Contract must notify the PHA in writing prior to a change in legal ownership of a housing unit.

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 acceptable to the PHA. The new owner must provide the PHA with a copy of the executed agreement.

#### PHA 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 13-I.D.

HACLB must receive a signed, written request from the existing owner stating the name and address of the new owner and the effective date of the ownership change. The new owner must provide a written certification to HACLB that includes:

A copy of the escrow statement or document showing the transfer of title;

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

Confirmation that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP Contract or fails to provide the necessary documents, HACLB 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, HACLB will process a new HAP Contract, 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.

#### **PHA Policy**

If a property is in foreclosure, the PHA 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.

The PHA 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.

The PHA 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 the PHA 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 NSPIRE standards), 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

The Housing Authority of the City of Long Beach (HACLB) is committed to ensuring that subsidy funds are spent in accordance with U.S. Department of Housing and Urban Development (HUD) requirements.

This chapter covers HUD and HACLB 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 HACLB policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures HACLB 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 Public Housing Agencies (PHAs) with a powerful tool for preventing errors and program abuse. PHAs are required to use the EIV system in its entirety, in accordance with HUD administrative guidance. [24 CFR §5.233]

PHAs are further required to:

- Provide applicants and participants with [Form HUD-52675](#), “Debts Owed to Public Housing Agencies and Terminations”; and
- Require all adult household members to acknowledge receipt of [Form HUD-52675](#) by signing a copy of the form for retention in the family file.

#### PHA Policy

To ensure that the HCV program is administered effectively and according to the highest ethical and legal standards, HACLB will employ a variety of techniques to ensure that both errors and intentional program abuse are rare. The following are examples of steps HACLB will take to prevent errors and program abuse:

HACLB will discuss program compliance and integrity issues during the Voucher briefing sessions described in Chapter 5.

HACLB will provide each applicant and participant with a copy of “Is Fraud Worth It?” ([Form HUD-1141-OIG](#)), which explains the types of actions a family must avoid and the penalties for program abuse.

HACLB will provide 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](#). In addition, HACLB will require the Head of each household to acknowledge receipt of the guide by signing the briefing packet checklist for retention in the family file.

HACLB will place a warning statement about the penalties for fraud, as described in [Title 18 U.S.C. §1001](#) and §1010, on key HACLB forms and form letters that request information from a family or owner.

HACLB will offer first-time owners (or their agents) the opportunity to participate in a briefing session on HAP Contract requirements.

Each HACLB employee will be provided with necessary training on program rules and the organization’s standards of conduct and ethics.

For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive, or mislead.

#### **14-I.B. DETECTING ERRORS AND PROGRAM ABUSE**

In addition to taking steps to prevent errors and program abuse, the PHA 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 PHAs 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 compliance with NSPIRE standards. [24 CFR Part 985] (see Chapter 16 for additional information about SEMAP requirements).

##### PHA Policy

In addition to the SEMAP quality control requirements, HACLB will employ a variety of methods to detect errors and program abuse including:

The PHA routinely will use HUD and other non-HUD sources of upfront 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.

The PHA 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. In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

##### PHA Policy

HACLB 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 HACLB's error detection and abuse prevention efforts.

##### **Individual Reporting of Possible Errors and Program Abuse**

##### PHA Policy

HACLB will encourage staff, program participants and the public to report possible program abuse.

## 14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE

### When the PHA Will Investigate

#### PHA Policy

HACLB will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if a report warrants investigation. The reported information 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.

HACLB will also investigate inconsistent information related to the family that is identified through file reviews and the verification process.

### Consent to Release of Information [[24 CFR §982.516](#)]

PHAs may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to give consent to the release of additional information.

### Analysis and Findings

#### PHA Policy

HACLB will base its evaluation on a preponderance of the evidence collected during an 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 the evidence is determined by the greater weight of all the evidence, rather than the number of witnesses.

For each investigation HACLB will determine:

- (1) Whether an error or program abuse has occurred;
- (2) Whether any amount of money is owed HACLB; 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 the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

### PHA Policy

In the case of family-caused errors or program abuse, HACLB 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, HACLB 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**

### PHA Policy

HACLB will inform the relevant party in writing of the findings and remedies within ten (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 HACLB 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 underpayment or overpayment includes an incorrect:

- (1) Housing Assistance Payment to the owner;
- (2) Family share established for the family; and
- (3) Utility reimbursement to a family.

#### **Corrections**

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share and any utility reimbursement prospectively.

##### PHA 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 the first of the month following the discovery of the error.

#### **Reimbursement**

Whether the family or owner is required to reimburse the PHA or the PHA 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 the family would generally be the result of incorrect reporting of family composition, income, assets, or expenses, but also includes instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

#### **Family Reimbursement to the PHA [HCV GB, pages 22-12 to 22-13]**

##### PHA Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. HACLB 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, HACLB will terminate the family's assistance, in accordance with the policies in Chapter 12.

#### **PHA Reimbursement to Family [HCV GB, page 22-12]**

##### PHA Policy

HACLB will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

## **Prohibited Actions**

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA. [[Title 18 U.S.C.§1001](#)]
- Commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program. [[24 CFR §982.552\(c\)\(iv\)](#)]

### PHA Policy

Any of the following will be considered evidence of family program abuse:

Payment to the owner in excess of amounts authorized by HACLB for rent, security deposit and additional services;

Offering bribes or illegal gratuities to HACLB Board of Commissioners, employees, contractors or other HACLB 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 HACLB 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); and/or

Admission of program abuse by an adult family member.

The PHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

## **Penalties for Program Abuse**

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the housing unit. (see policies in Chapter 3 - for applicants and Chapter 12 - for participants)
- The PHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution, as described in section 14-II.E.

## **14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE**

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit, e.g. NSPIRE 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 housing unit.

### **Owner Reimbursement to the PHA [HCV GB, page 22-13]**

In all cases of overpayment of subsidy caused by the owner, the owner must repay the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding Housing Assistance Payments due for subsequent months or if the debt is large, the PHA may allow the owner to pay in installments over a period of time.

#### PHA Policy

In cases when the owner has received excess subsidy, HACLB will require the owner to repay the amount owed in accordance with Section 16-IV.B.

### **Prohibited owner Actions**

An owner participating in the HCV program must not:

- Make any false statement to the PHA. [[Title 18 U.S.C. §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:

#### PHA Policy

Any of the following will be considered evidence of owner program abuse:

- Charging the family rent above or below the amount specified by the PHA;
- 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 housing unit;
- Knowingly accepting incorrect or excess Housing Assistance Payments
- Offering bribes or illegal gratuities to the PHA Board of Commissioners, employees, contractors or other PHA representatives;
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the PHA; and
- Residing in the housing 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 the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess Housing Assistance Payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP Contract. (see Chapter 13)
- Bar the owner from future participation in any PHA programs.
- Refer the case to state or federal officials for criminal prosecution, as described in section 14-II.E.

#### **14-II.D. PHA-CAUSED ERRORS OR PROGRAM ABUSE**

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this Plan. This section specifically addresses actions of PHA staff members that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA's personnel policy.

PHA-caused incorrect subsidy determinations include:

- (1) Failing to correctly apply HCV rules regarding family composition, income, assets and expenses;
- (2) Assigning the incorrect Voucher size to a family; and
- (3) Errors in calculation.

#### **Repayment to the PHA**

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by PHA staff. [HCV GB 22-12]

#### **PHA Reimbursement to Family or Owner**

PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the PHA's Administrative Fee Reserves. [HCV GB 22-12]

#### **Prohibited Activities**

##### PHA Policy

The following will be considered evidence of program abuse by HACLB 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 HACLB;

Disclosing confidential or proprietary information to outside parties;

Gaining profit as a result of insider knowledge of HACLB activities, policies or practices;

Misappropriating or misusing HCV funds;

Destroying, concealing, removing, or inappropriately using any records related to the HCV program; and

Committing any other corrupt or criminal act in connection with any federal housing program.

#### **14-II.E. CRIMINAL PROSECUTION**

##### PHA Policy

When HACLB determines that program abuse by an owner, family or HACLB staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, HACLB will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

#### **14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES**

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order or a Repayment Agreement. [24 CFR §982.163]

The PHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the PHA to retain the greater of:

- 50 percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative Repayment Agreement; or
- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.
- The family must be afforded the opportunity for an Informal Hearing in accordance with requirements in [\[24 CFR §982.555\]](#).

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.

## Chapter 15

### SPECIAL HOUSING TYPES

[24 CFR §982, Subpart M; New HCV GB, *Special Housing Types*]

Public Housing Agencies (PHAs) may permit a family to use any of the Special Housing types discussed in this chapter. However, PHAs are not required to permit program participants to use these housing types, except that PHAs must permit use of any Special Housing type if needed as a Reasonable Accommodation for a person with a disability. PHAs also may limit the number of families who receive Housing Choice Voucher (HCV) program assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for Special Housing types. Unless specifically modified by the regulations, NSPIRE standards apply to special housing types (Single Room Occupancy, Congregate Housing, Group Homes, Shared Housing, Manufactured Homes, Homeownership units) [Notice PIH 2023-28].

#### PHA Policy

Families will not be permitted to use Group Homes, or Cooperative Housing, unless use is needed as a Reasonable Accommodation so that the program is readily accessible to a person with disabilities.

Targeted funding programs may use some of the above housing types outside of this policy.

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] A single unit cannot be designated as more than one type of special housing. The PHA cannot give preference to households that wish to live in any of these types of housing and cannot require households to select any of these types of housing [New HCV GB, *Special Housing Types*, p. 3].

This chapter consists of the following eight 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 (SRO) 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: Veterans Affairs Supportive Housing (VASH)





## **PART I: SINGLE ROOM OCCUPANCY**

[24 CFR 982.602 through 982.605; Form HUD-52641; New HCV GB,  
*Special Housing Types*, p. 4]

### **15-I.A. OVERVIEW**

A Single Room Occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant and 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; however, 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. 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: Single room occupancy (SRO) housing.”

### **15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE and HAP CALCULATION**

The Payment Standard for SRO housing is 75 percent of HACLB’s 0-bedroom Payment Standard amount on the Payment Standard schedule.

The Utility Allowance for an assisted person residing in SRO housing is 75 percent of the 0-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. NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE (NSPIRE)**

NSPIRE requirements described in Chapter 8 apply to SRO housing except that sanitary facilities, and space and security characteristics must meet local code standards for SRO housing. In the absence of applicable local code standards for SRO housing, the following standards apply:

- *Access:* Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the housing 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, large 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 males, 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 to all persons sharing them and may not be located more than one floor above or below the SRO unit. Sanitary facilities must 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.

For SRO housing, 24 CFR 5.703(d) only applies to the extent that the SRO unit contains the room or facility referenced in 24 CFR 5.703(d). Because no children live in SRO housing, the NSPIRE Standards applicable to lead-based paint do not apply.

## **PART II: CONGREGATE HOUSING**

[24 CFR §982.606 through 982.609; Form HUD-52641; New HCV GB,  
*Special Housing Types*, p. 6]

### **15-II.A. OVERVIEW**

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom, and bathroom. Food service for residents must be provided.

If approved by the PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a Reasonable Accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP Contract are executed for each assisted family. 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: Congregate housing.”

### **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 for the assisted family. If there is only one room in the housing unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the Payment Standard for a 0-bedroom unit. If the housing unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the 1-bedroom Payment Standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable Payment Standard minus the TTP or the gross rent for the housing unit minus the TTP.

The gross rent for the housing 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. NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE (NSPIRE)**

NSPIRE requirements, as described in Chapter 8, apply to congregate housing except for the requirements stated below. The Housing Quality Standards applicable to lead-based paint do not apply.

Congregate housing is not subject to the requirement that the dwelling unit must have a kitchen area. In place of the NSPIRE standards related to food preparation and refuse disposal, congregate housing must have a refrigerator of appropriate size in the private living area of each resident, a central kitchen and dining facilities located within the premises and accessible to the residents, and food service for the residents, that is not provided by the residents themselves.

The congregate housing must contain adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary storage where necessary.

The NSPIRE standards applicable to lead-based paint do not apply unless a child under the age of six is expected to reside in the unit.

## **PART III: GROUP HOME**

[24 CFR §§982.610-982.614; Form HUD-52641; New HCV GB,  
*Special Housing Types*, p. 8]

### **15-III.A. OVERVIEW**

A group home is a state-approved (licensed, certified, or otherwise approved in writing by the state) 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 or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people and a living room, kitchen, dining area, bathroom and other appropriate social, recreational or community space that may be shared with other residents. No more than 12 persons may reside in a group home, including assisted and unassisted residents and any live-in aides.

If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a Reasonable Accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP Contract is executed for each assisted family. 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: Group home.”

### **15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE and HAP CALCULATION**

Unless there is a live-in aide, the family unit size (voucher size) for an assisted occupant of a group home must be 0- or 1-bedroom. 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 pro rata 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 family unit size to 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, the PHA must consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

### **15-III.C. NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE (NSPIRE)**

The entire unit must comply with NSPIRE requirements described in Chapter 8, except for the standards that relate to sanitary facilities, food preparation and refuse disposal, space and security, structure and materials, and site and neighborhood and stated below.

- *Sanitary Facilities:* the unit must have at least one bathroom, with a flush toilet that can be used in privacy, and a fixed basin and 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:* the unit must contain a kitchen and dining area with adequate space to store, prepare and serve food. The facilities for food preparation may be private or may be shared. The kitchen must contain a range or stove with 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. Doors and windows accessible from outside the unit must be lockable.
- *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 disturbing noises and reverberations, and other 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 unless a child under the age of six is expected to reside in the unit.





## **PART IV: SHARED HOUSING**

[24 CFR §§982.615-982.618; Form HUD-52641; Notice PIH 2021-05;  
New HCV GB, *Special Housing Types*, p. 11]

### **15-IV.A. OVERVIEW**

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the housing unit and separate private space for each assisted family.

An assisted family may share a unit with other assisted persons under the HCV program or with unassisted persons. The owner of a shared housing unit may reside in the housing unit; however, housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities. The PHA must approve a live-in aide if needed as a Reasonable Accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP Contract are executed for each assisted family, and the standard HAP Contract form is used.

#### PHA Policy

Non-disabled families will be permitted to use the shared housing type as long as the unit is in accordance with the requirements listed under Chapter 15, Part IV.

Families will not be permitted to use the group homes or cooperative housing unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities.

#### 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 housing unit.

<b>Example:</b> 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
$\$1695 \times .667 \text{ (pro-rata share)} = \$1131$
\$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.

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 should consider whether sanitary and food preparation areas are private or shared.



#### **15-IV.C. NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE (NSPIRE)**

PHAs may not give approval to reside in shared housing, unless the entire unit, including the portion of the housing unit available for use by the assisted family under the lease, meets Housing Quality Standards.

NSPIRE 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 (voucher size). A 0-bedroom or 1-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. NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE (NSPIRE)**

All standard NSPIRE requirements apply to cooperative housing units. There are no additional NSPIRE 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 NSPIRE standards, the PHA may exercise all available remedies regardless of whether the family or cooperative is responsible for the breach of NSPIRE standards.

No housing assistance payment can be made unless unit meets NSPIRE 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 NSPIRE deficiencies, breaches of NSPIRE standards 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 §§982.620-982.624; 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 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 NSPIRE 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 for the space rent. 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**

### **Payment Standards**

The FMR for a manufactured home space is generally 40 percent of the published FMR for a 2-bedroom unit or, when approved by HUD, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. PHAs may establish a Payment Standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces.

### **Utility Allowance**

PHAs must establish Utility Allowances for manufactured home space rents. 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.

### **Space Rent**

The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner and the Utility Allowance for tenant-paid utilities.

**Housing Assistance Payment (HAP)**

The HAP for a manufactured home space under the Housing Choice Voucher program is the lower of the Payment Standard minus the TTP or the (gross) manufactured home space rent minus the TTP.

**Rent Reasonableness**

Initially, and 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-VLD. NATIONAL STANDARDS FOR THE INSPECTION OF REAL ESTATE**

Under either type of occupancy described in 15-VI. A above, the manufactured home must meet all NSPIRE 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 housing unit to appropriate ground anchors to resist overturning and sliding.

## **PART VII: VETERANS AFFAIRS SUPPORTIVE HOUSING**

[[Federal Register Docket No. FR-5596-N-02](#)]

### **15-VII.A. OVERVIEW**

Since Fiscal Year (FY) 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans authorized by Section 8(o)(19) of the [United States Housing Act of 1937](#) (42 U.S.C. §§1437f(o)(19)). The initiative, known as the HUD-VASH program, combines HCV rental assistance for homeless veterans with case management and clinical services provided by VA community medical centers.

Assistance made available for this program must, however, continue to remain available for homeless veterans upon turnover.

Unless expressly herein, all regulatory requirements and HUD directives regarding the HCV tenant-based program are applicable to HUD-VASH Vouchers, including the use of all HUD-required contracts and other forms.

### **15-VII.B Non-discrimination and Reasonable Accommodation**

The HUD-VASH program is administered in accordance with applicable Fair Housing requirements. 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. These requirements prohibit discrimination on the basis of race, color, religion, sex, familial status, national origin, age, or disability.

When HUD-VASH recipients include veterans with disabilities or family members with disabilities, HUD's Reasonable Accommodation standards requirements apply. (See Chapter 2 for Reasonable Accommodation and Non-discrimination policies)

### **15-VII.C Family Eligibility and Selection**

HUD-VASH-eligible families are homeless veterans and their families. VA HUD-VASH case managers will refer HUD-VASH-eligible families to the PHA for the issuance of Vouchers. The PHA must accept referrals from their VA partner. Written documentation of these referrals must be maintained in the tenant file by the PHA. Therefore, the PHA will not have the authority to maintain a waiting list or apply local preferences for HUD-VASH Vouchers.

Accordingly, regulations applying to preferences are waived to provide for the effective administration of the HUD-VASH program. This includes [24 CFR §982.202](#), [§982.204](#) and [982.207](#), relating to applicant selection from the waiting list and local preferences. regarding special admissions, cross-listing of the waiting list and opening and closing the waiting list do not apply to the HUD-VASH program. [[24 CFR §982.203](#), [§982.205](#) and [§982.206](#)]

VA HUD-VASH case managers will screen all families in accordance with VA screening criteria. By agreeing to administer the HUD-VASH program, the PHA relinquishes the authority to determine the eligibility of families, in accordance with regular HCV program rules and PHA policies.

Specifically, under the HUD-VASH program, PHAs do not have the authority to screen any

potentially eligible family members or deny assistance for any grounds permitted under [24 CFR §982.552](#) (broad denial for violations of HCV program requirements) and [24 CFR §982.553](#) (specific denial for criminals and alcohol abusers), with one exception: the PHA will still be required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. However, unless the family member that is subject to lifetime registration under a state sex offender registration program is the homeless veteran (which would result in denial of admission for the family), the remaining family members may be served if the family agrees to remove the sex offender from their family composition.

#### PHA Policy

HACLB will serve the remaining family members if the family agrees to remove the sex offender from their family composition unless the family member subject to lifetime registration under a state sex offender registration program is the homeless veteran. In this case, the family will be denied admission.

### **15-VII.D Income Eligibility**

PHAs must determine income eligibility for HUD–VASH families, in accordance with [24 CFR §982.201](#).

Income-targeting requirements do not apply for HUD–VASH, in order to allow PHAs to effectively serve the eligible population specified in the various appropriations acts; that is, homeless veterans, who may be at a variety of income levels, including low- income. PHAs may, however, choose to include extremely low-income HUD–VASH families with income targeting numbers for the fiscal year in which the families are admitted.

#### PHA Policy

Extremely low-income HUD-VASH families will not be included with HACLB’s income targeting numbers.

In conformance with normal program rules, the PHA may not deny admission to a family with zero income and must consider hardship circumstances before charging a minimum rent, in accordance with [\[24 CFR §5.630\(b\)\]](#).

### **15-VII.E Initial Search Term of the Housing Choice Voucher**

Recognizing the challenges that HUD–VASH participants may face with their housing search, HUD–VASH Vouchers must have an initial search term of at least 120 days. Therefore, [24 CFR §982.303\(a\)](#), which states that the initial search term must be at least 60 days, shall not apply, since the initial term must be at least 120 days.

Any extensions, suspensions and progress reports will remain under the policies in the PHA’s Administrative Plan and will apply after the minimum 120-day initial search term.

### **15-VII.F Ineligible Housing**

HUD–VASH families will be permitted to live on the grounds of a VA facility in units developed to house homeless veterans. Therefore, [24 CFR §982.352\(a\)\(5\)](#), which prohibits units on the physical grounds of a medical, mental, or similar public or private institution, is waived for that

purpose only.

### **15-VII.G Initial Lease Term**

Under the HCV program, Voucher participants must enter into an initial lease with the owner for one year, unless a shorter term would improve housing opportunities for the tenant and the shorter term is a prevailing market practice. To provide a greater range of housing opportunities for HUD– VASH Voucher holders, initial leases may be less than 12 months; therefore, 24 CFR §982.309(a)(2)(ii) is waived.

#### PHA Policy

HACLB will require the initial term of the lease to be one year.

### **15-VII.H PRE-CONTRACT HQS**

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 HUD– VASH family selects a unit that passed a NSPIRE inspection (without intervening occupancy) within 45 days of the date of the Request For Tenancy Approval ([Form HUD-52517](#)), the housing unit may be approved, provided that it meets all other conditions under [24 CFR §982.305](#). However, the veteran must be free to select his/her unit and cannot be steered to these units.

#### PHA Policy

If common units are identified that veterans may be interested in leasing, HACLB may pre-inspect available units in order to maintain a pool of eligible units. HACLB will not steer veterans to these units.

### **15-VII.I Adding Family Members**

When adding a family member after the HUD–VASH family is admitted to the program, the rules of [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 regular screening criteria in doing so.

In regards to verification of social security numbers (SSN) for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name of the individual and the SSN of the individual along with other identifying information of the individual, is acceptable in accordance with [24 CFR §5.216\(g\)](#).

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 SSN card. These documents must also be accepted for proof-of-age purposes in lieu of birth certificates or other PHA-required documentation.

Please note that veterans are also issued photo identification cards by the VA. If such identification is required by the PHA, these cards must be accepted by the PHA in lieu of another type of government-issued photo identification. These cards may also be used to verify SSNs and date of birth.

#### PHA Policy

HACLB will accept photo identification cards issued by the VA as verification of social security numbers and date of birth (age).

### **15-VII.J Termination of Assistance**

HUD has not established any alternative requirements for termination of assistance for HUD–VASH participants. However, prior to terminating HUD–VASH participants, HUD strongly encourages PHAs to exercise their discretion under [24 CFR §982.552\(c\)\(2\)](#) and consider all relevant circumstances of the specific case, including granting Reasonable Accommodations for persons with disabilities in accordance with 24 CFR part 8, as well as including 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, prior to determining whether to terminate assistance.

#### PHA Policy

HACLB will consider all relevant circumstances of the specific case, including granting Reasonable Accommodations for persons with disabilities.

HACLB will also consider the role of the case manager and the impact that ongoing case management services might have on mitigating the conditions that led to the potential termination.

In addition, a HUD–VASH participant family must not be terminated for a circumstance or activity that occurred before admission, was known to the PHA and could not be considered at the time of admission due to HUD–VASH Operating Requirements.

The PHA can terminate the family’s assistance only for program violations that occur after the family’s admission to the Voucher program.

### **15-VII.K Mobility and Portability**

An eligible family that is issued a HUD–VASH Voucher must receive case management services provided by the partnering Veterans Affairs Medical Center (VAMC) or Community-Based Outpatient Clinics (CBOC). Therefore, special mobility and portability procedures must be established. HUD–VASH participant families may reside only in those jurisdictional areas that are accessible to case management services as determined by VA HUD–VASH case managers at the partnering VAMC or CBOC.

Since case managers will be identifying homeless veterans eligible to participate in the HUD–VASH program, Section 8(r)(1)(B)(i) of the [United States Housing Act of 1937](#) (42 U.S.C. §§1437f(r)(1)(B)(i)), which restricts portability in cases when the family did not reside in the PHA’s jurisdiction at the time of application for HCV assistance and [24 CFR §982.353\(a-c\)](#), which affects where a family can lease a unit with HCV assistance, do not apply.

HUD may publish public housing notices from time to time to further explain portability requirements under the HUD–VASH program.

***Portability Moves within Same Catchment Area (or Area of Operation) Where Case***



***Management is provided by the Initial PHA's Partnering VAMC or CBOC*** If the family initially leases up or moves under portability and the Initial PHA's partnering VAMC or CBOC can still provide the necessary case management services due to the family's proximity to the partnering VAMC or CBOC, the Receiving PHA must process the move, in accordance with portability procedures. [24 CFR §982.355]

However, since the Initial PHA must maintain records on all HUD–VASH families receiving case management services from its partnering VAMC or CBOC, Receiving PHA without a HUD–VASH program must bill the Initial PHA. Therefore, 24 CFR §982.355(d), which gives the Receiving PHA the option to absorb the family into its own HCV program or bill the Initial PHA, is not applicable.

***Portability Moves within Same Catchment Area Where Both PHAs Have Received HUD–VASH Vouchers***

The Receiving PHA may bill the Initial PHA or absorb the family into its own HUD–VASH program if the VAMC or CBOC providing the initial case management agrees to the absorption by the Receiving PHA and the transfer of case management. The absorption will also entail the availability of a HUD– VASH Voucher and case management provision by the Receiving PHA's partnering VAMC or CBOC.

**PHA Policy**

HACLB will decide to bill the Initial PHA or absorb the family into its own HUD–VASH program on a case-by-case basis, considering the above requirements.

***Portability Moves Where Receiving PHA Is Beyond Catchment Area***

If a family wants to move to another jurisdiction where it is not possible for the Initial PHA's partnering VAMC or CBOC to provide case management services, the VAMC must first determine that the HUD–VASH family could be served by another VAMC or CBOC that is participating in this program and the Receiving PHA must have a HUD– VASH Voucher available for this family. In these cases, the families must be absorbed by the Receiving PHA, either as a new admission (upon initial participation in the HUD– VASH program) or as a portability move-in (for program participants from the Initial PHA's jurisdiction).

Upon absorption, the Initial PHA's HUD–VASH Voucher will be available to lease to a new HUD–VASH-eligible family, as determined by the partnering VAMC or CBOC and the absorbed family will count toward the number of HUD–VASH slots awarded to the Receiving PHA.

***Portability Moves When Case Management Is No Longer Required***

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply. When completing the [Form HUD-50058](#), the family will continue to be coded “VASH” on line 2n unless the Initial PHA issues the family a regular Voucher, in which case the code will no longer apply.

**15-VII.L Case Management Requirements**

The VAMC or CBOC's responsibilities include:

- Screening homeless veterans to determine whether HUD–VASH program participation

- criteria established by the VA national office is met;
- Referrals of homeless veterans to the PHA;
- Providing appropriate treatment and supportive services to potential HUD– VASH program participants, if needed, prior to issuance of rental Vouchers;
- Providing housing search assistance to HUD–VASH participants with rental Vouchers;
- Identifying the social service and medical needs of HUD–VASH participants and 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.

As a condition of receiving HCV rental assistance, a HUD–VASH-eligible family must receive the case management services noted above from the VAMC or CBOC. Therefore, a HUD– VASH participant family’s HCV assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or CBOC.

However, a VAMC or CBOC determination that the participant family no longer requires case management is not grounds for termination of assistance. In such a case, at its option, PHAs may offer the family continued HCV assistance through one of its regular Vouchers, to free up the HUD–VASH Voucher for another eligible family referred by the VAMC or CBOC.

If the PHA has no Voucher to offer, the family will retain its HUD–VASH Voucher until such time as the PHA has an available Voucher for the family. If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

#### PHA Policy

HACLB will require documentation from the VAMC or CBOC that the VAMC or CBOC has determined that the family no longer requires case management. Upon receipt of the documentation, HACLB will offer the family continued HCV assistance through a regular Voucher, if available.

### **15-VII.M Turnover of HUD-VASH Vouchers**

Upon turnover, HUD–VASH Vouchers must be issued to eligible families as identified by the VAMC or CBOC.

### **15-VII.N Moving to Work (MTW) Agencies**

HUD–VASH Vouchers must be administered in accordance with this notice and are not eligible for fungibility under the PHA’s MTW agreements. HUD–VASH Vouchers must be reported on separately from Vouchers under the agency’s MTW Agreement.

### **15-VII.O Project-Based Assistance**

Although HUD–VASH Vouchers are tenant-based rental assistance, HUD will consider, on a case-by-case basis, requests from the PHA (with the support of the applicable Director of the VAMC or Veterans Integrated Service Network (VISN)) to project-base these Vouchers in accordance with 24 CFR part 983. Public housing notices will be issued from time to time to address this issue.

#### **15-VII.P Section Eight Management Assessment Program (SEMAP)**

Since the leasing of HUD–VASH Vouchers will be dependent on referrals from the VAMC or CBOC, the housing unit months and budget authority associated with these Vouchers will not be included in the SEMAP leasing indicator. Therefore, [24 CFR 985.3\(n\)\(1\)\(i\) and \(ii\)](#) are waived. However, utilization of these Vouchers will be monitored separately through HUD systems.

#### **15-VII.Q Reallocation of HUD-VASH Vouchers**

Under the appropriation acts cited herein, Congress has directed the VA and HUD to allocate HUD–VASH Vouchers based on geographical need for such assistance. In recognition that there may be changes and shifts in the population of homeless veterans over time, it may become necessary for HUD to reallocate HUD–VASH Vouchers between PHAs, regardless of the jurisdictional boundaries of the PHA, in order to better address the current need of homeless veterans.

In addition, HUD may reallocate Vouchers due to poor performance by PHAs and/or the VAMC in serving this population, as evidenced by a lack of adequate referrals or inadequate Voucher utilization rates after sufficient warning and cure time has been provided by HUD and/or the VA. Therefore, HUD–VASH Vouchers may be reallocated among PHAs within the same state or between PHAs in different states based on the utilization of previously awarded HUD–VASH Vouchers and current geographic need as determined by the VA and HUD.

## 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 nine parts as described below:

Part I: Administrative Fee Reserve. This part describes the policies of the Housing Authority of the City of Long Beach (the PHA) with regard to oversight of expenditures from its Administrative Fee Reserve.

Part II: Setting Program Standards and Schedules. This part describes the Payment Standards and updates to the Payment Standards, 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/Hearings and for Informal Hearings regarding citizenship status.

Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that a Public Housing Agency (PHA) has overpaid and describes the circumstances under which a PHA will offer Repayment Agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a Repayment Agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how the scores are established and how the scores affect PHAs.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level (EIBLL). This part describes the PHA's responsibilities for reporting, data collection and record keeping relative to children under six (6) years of age with EIBLLs who receive HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA's policies for determining if there is sufficient funding to issue Vouchers, to approve moves to higher cost units or areas and to continue assistance for all participant families.

Part IX: Violence Against Women Reauthorization Act of 2013 (VAWA): Notification, Documentation, 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 and stalking; and maintaining the confidentiality of information obtained from victims.



## **PART I: ADMINISTRATIVE FEE RESERVE [24 CFR §982.155]**

PHAs must maintain an Administrative Fee Reserve for the program to pay program administrative expenses in excess of administrative fees paid by HUD. If funds in the Administrative Fee Reserve are not needed to cover the PHA's administrative expenses, the PHA may use these funds for other housing purposes permitted by Federal, State and local law.

In addition, as specified in Notice PIH 2022-18, PHAs may use administrative fee funding for both administrative and "other expenses" needed to employ strategies and undertake activities beyond regular administrative responsibilities to facilitate the successful leasing and use of housing choice vouchers by families, such as through the use of security deposit assistance and landlord recruitment and incentive payments, among other allowable expenses specified in the notice. PHAs are also permitted to use UNP for these expenses [Notice PIH 2022-18].

If a PHA has not adequately administered any Section 8 program, HUD may prohibit use of funds in the Administrative Fee Reserve and may direct the PHA to use funds in the reserve to improve administration of the program or to reimburse ineligible expenses. HUD also may prohibit use of the funds for certain purposes.

HUD requires the PHA's Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the Administrative Fee Reserve without specific approval.

### **PHA Policy**

Expenditures from the Administrative Fee Reserve will be made in accordance with all applicable Federal requirements. Expenditures will not exceed \$10,000 per occurrence without the prior approval of the PHA's Board of Commissioners.



## **PART II: SETTING PROGRAM STANDARDS AND SCHEDULES**

### **16-II.A. OVERVIEW**

Although many of the program's requirements are established centrally by HUD, the HCV program's regulations recognize that some flexibility is required to allow the PHA to adapt the program to local conditions. This part discusses how the PHA establishes and updates certain schedules and standards that are used to administer the program locally. Details about how these schedules are applied to individual families are provided in other Chapters. The schedules and standards discussed here include:

- *Payment Standards*, which dictate the maximum subsidy a family can receive (application of the Payment Standards is discussed in Chapter 6); and
- *Utility Allowances*, which specify how a family's payment should be adjusted to account for tenant-paid utilities (application of Utility Allowances is discussed in Chapter 6).

#### PHA Policy

Payment Standards and Utility Allowance Schedules are available for review in the PHA's office during normal business hours and on the PHA's website.

Families, owners and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The PHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least 3 years.

### **16-II.B. PAYMENT STANDARDS [24 CFR §982.503; HCV GB, Chapter 7]**

The Payment Standard sets the maximum subsidy payment a family can receive from the PHA each month. [\[24 CFR §982.505\(a\)\]](#) Payment Standards are based on Fair Market Rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

PHAs must establish a Payment Standard schedule that establishes Payment Standard amounts for each FMR area within the PHA's jurisdiction and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single Payment Standard amount for the whole FMR area or may set different Payment Standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a Payment Standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.



## Updating Payment Standards

When HUD updates its FMRs, PHAs must update its Payment Standards if the standards are no longer within the basic range. [24 CFR §982.503(b)] HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA's jurisdiction are unacceptably high. [24 CFR §982.503(g)]

### PHA Policy

The PHA 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" the PHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

**Funding Availability:** The PHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The PHA will compare the number of families who could be served under revised Payment Standard amounts with the number assisted under current Payment Standard amounts.

**Rent Burden of Participating Families:** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, The PHA will consider increasing the Payment Standard. In evaluating rent burdens, The PHA will not include families renting a larger unit than their family unit size.

**Quality of Units Selected:** The PHA 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:** The PHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

**Unit Availability:** The PHA may review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

**Lease-up Time and Success Rate:** The PHA may 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.

Effective dates of changes to payment standard amounts will be determined at time of update. The PHA will always ensure the payment standards will be within the basic range.

## **Exception Payment Standards [24 CFR 982.503(c)(5), Notice PIH 2018-01, FR Notice 9/27/21]**

A non-SAFMR the 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](mailto:SAFMRs@hud.gov) to notify HUD that it has adopted an exception payment standard based on the SAFMR. A the 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 the 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.

In addition, HUD allows PHAs to establish a HUD-Veterans Affairs Supportive Housing (HUD-VASH) exception payment standard. PHAs may go up to but no higher than 120 percent of the FMR or 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 (See Section 19-III.E.).

## **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.

### PHA Policy

The PHA was a participant in the SAFMR Demonstration Program after which it voluntarily adopted the use of SAFMRs and was approved by HUD for all zip codes.

## **Unit-by-Unit Exceptions [24 CFR §982.503(c)(2)(ii), §982.505(d), and Notice PIH 2010-26]**

Unit-by-unit exceptions to the PHA's Payment Standards generally are not permitted. However, an exception may be made as a Reasonable Accommodation for a family that includes a person with disabilities. This type of exception does not affect the PHA's Payment Standard schedule. (see Chapter 2 for a discussion of Reasonable Accommodations.)

When needed as a Reasonable Accommodation, PHAs may make an exception to the Payment Standard without HUD approval if the exception amount does not exceed 110 percent of the applicable FMR for the unit size. [HCV GB, page 7-9]

PHAs may request HUD approval for an exception to the Payment Standard for a particular family, if the required amount falls between 110 and 120 percent of the FMR.

### PHA 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, THE PHA 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 housing unit is reasonable.

### **"Success Rate" Payment Standard Amounts [24 CFR §982.503(e)]**

If a substantial percentage of families have difficulty finding a suitable unit, the PHA may request a "Success Rate Payment Standard" that applies to the entire jurisdiction. If approved by HUD, a success rate Payment Standard allows the PHA to set its Payment Standards at 90-110 percent of a higher FMR (the 50<sup>th</sup>, rather than the 40<sup>th</sup> percentile FMR). To support the request, the PHA must demonstrate that during the most recent 6-month period for which information is available:

- Fewer than 75 percent of families who were issued Vouchers became participants;
- The PHA established Payment Standards for all unit sizes and for the entire jurisdiction at 110 percent of the published FMR; and
- The PHA had a policy of allowing Voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate Payment Standard for all unit sizes in the FMR area, the PHA may choose to adjust the Payment Standard for only some unit sizes in all or a designated part, of the PHA's jurisdiction within the FMR area.

### **Decreases in the Payment Standard Below the Basic Range [24 CFR §982.503(d)]**

PHAs 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](#) and HCV GB, Chapter 18]

A PHA-established Utility Allowance Schedule is used in determining family share and the PHA's subsidy. PHAs 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, PHAs 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 to provide housing that complies with Housing Quality Standards. Costs for telephone, cable/satellite television and internet services are not included in the schedule.

In the Utility Allowance Schedule, the PHA must classify utilities and other housing services, according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. (see the HCV Guidebook, Chapter 18)

### **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.

#### PHA Policy

The PHA includes an allowance for air-conditioning in its schedule. Central air-conditioning or a portable air conditioner must be present in a unit before the PHA will apply this allowance to a family's rent and subsidy calculations.

### **Reasonable Accommodation**

HCV program regulations require PHAs to approve a Utility Allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a Reasonable Accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air-conditioning, even if the PHA has determined that an allowance for air-conditioning generally is not needed (see Chapter 2 for policies regarding the request and approval of Reasonable Accommodations).

### **Utility Allowance Revisions**

PHAs must review the schedule of Utility Allowances each year and must revise the schedule if there is a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised. PHAs must maintain information supporting the annual review of Utility Allowances and any revisions made in the Utility Allowance Schedule.



## **PART III: INFORMAL REVIEWS AND HEARINGS**

### **16-III.A. OVERVIEW**

When a PHA makes a decision that has a negative impact on a family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an Informal Review. For participants or for applicants denied admission due to citizenship/immigration status, the appeal takes the form of an Informal Hearing.

PHAs are required to include Informal Review procedures and Informal Hearing procedures in their Administrative Plan. [[24 CFR §982.54\(d\)\(12\) and \(13\)](#)]

### **16-III.B. INFORMAL REVIEWS [[24 CFR §982.554](#)]**

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the HCV program and has not yet participated in the program. Informal reviews are intended to provide a “minimum hearing requirement” and need not be as elaborate as the Informal Hearing requirements. [*Federal Register* 60, no. 127 (3 July 1995): 34690]

#### **Decisions Subject to Informal Review [[24 CFR 982.554\(a\) and \(c\)](#)]**

PHAs must give an applicant the opportunity for an Informal Review of a decision denying assistance. [[24 CFR §982.554\(a\)](#)]

Denial of assistance may include any or all of the following: [[24 CFR §982.552\(a\)\(2\)](#)]

- Denying listing on the PHA’s waiting list;
- Denying or withdrawing a Voucher;
- Refusing to enter into a HAP Contract or approve a lease; and
- 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 the PHA;
- General policy issues or class grievances;
- A determination of the family unit size under the PHA Subsidy Standards;
- A determination not to approve an extension of a Voucher term;
- A determination not to grant approval of the tenancy;
- A determination that the housing unit is not in compliance with NSPIRE standards; and
- A determination that the housing unit does not meet space standards.

#### PHA Policy

The PHA 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\(a\)](#)]

PHAs must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA's 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**

##### PHA Policy

A request for an Informal Review must be made in writing and delivered to the PHA either in person, by first class mail, fax or email, by the close of the business day, no later than ten (10) business days from the date of the PHA's letter of denial of assistance.

the PHA will schedule and send written notice of the Informal Review within fifteen (15) 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 PHA's decision.

## **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.

### **PHA Policy**

The PHA 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, the PHA 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 childcare 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 their 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.

#### PHA 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 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.

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\(b\)](#)]

PHAs must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

**PHA Policy**

In rendering a decision, the PHA will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the Notice;
- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned;
- The validity of the evidence. the PHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial and the denial is required by HUD, the PHA will uphold the decision to deny assistance; and
- If the facts prove the grounds for denial and the denial is discretionary, the PHA will consider the recommendation of the person conducting the Informal Review in making the final decision whether to deny assistance.

the PHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within fifteen(15) business days of the Informal Review, to the applicant and their representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the Informal Review, processing for admission will resume.

If the family fails to appear a scheduled Informal Review, the denial of admission will stand and the family will be so notified.

### **16-III.C. INFORMAL HEARING FOR PARTICIPANTS** [[24 CFR §982.555](#)]

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 was admitted to the PHA's HCV program and is currently assisted in the program. The purpose of an Informal Hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

PHAs are 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 is completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP Contract or approve a lease;
- Terminating Housing Assistance Payments under an outstanding HAP Contract;
- Refusing to process or provide assistance under portability procedures.

#### **Decisions Subject to Informal Hearing**

Circumstances for which the PHA must give a participant family an opportunity for an Informal Hearing are, as follows:

- A determination of the family's annual or adjusted income and the use of such income to compute the Housing Assistance Payment;
- A determination of the appropriate Utility Allowance (if any) for tenant-paid utilities from the PHA's Utility Allowance Schedule;
- A determination of the family unit size under the PHA's Subsidy Standards;
- A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the PHA's Subsidy Standards or the PHA's determination to deny the family's request for exception from the standards;
- A determination to terminate assistance for a participant family because of the family's actions or failure to act;
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA 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 the PHA;
- General policy issues or class grievances;
- Establishment of the PHA's Utility Allowances Schedule for families in the program;
- A determination not to approve an extension of a Voucher term;
- A determination not to approve a unit or tenancy;
- A determination that the unit selected by the family is not in compliance with NSPIRE standards;
- A determination that the housing unit is not in accordance with space standards because of family size; and
- A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP Contract.

#### PHA Policy

The PHA will only offer participants the opportunity for an informal hearing when required 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.

#### PHA Policy

The PHA 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, the PHA 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. The PHA 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 their 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.

### **PHA 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.

## **Informal Hearing Procedures**

### ***Notice to the Family*** [[24 CFR §982.555\(c\)](#)]

When PHAs make a decision that is subject to Informal Hearing procedures, the PHA must inform the family of its right to an Informal Hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, the determination of the appropriate Utility Allowance and the determination of the family unit size, the PHA must notify the family of their right to ask for an explanation of the basis of the determination and that if the family does not agree with the decision, they may request an Informal Hearing on the decision.

For decisions related to the termination of the family's assistance or the denial of a family's request for an exception to the PHA'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 and a statement of the deadline for the family to request an Informal Hearing.

### **PHA Policy**

In cases when the PHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the PHA;
  - A brief statement of the reasons for the decision including the regulatory reference;
  - The date the proposed action will take place;
  - A statement of the family's right to an explanation of the basis for the PHA's decision;
  - A statement that if the family does not agree with the decision the family may request an informal hearing of the decision;
  - A deadline for the family to request the informal hearing;
  - To whom the hearing request should be addressed;
  - A copy of the 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, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

#### PHA Policy

A request for an Informal Hearing must be made in writing and delivered to the PHA in person, by first class mail, by fax or email by the close of the business day, no later than ten (10) business days from the date of the PHA's decision or notice to terminate assistance.

the PHA will schedule and send written notice of the Informal Hearing to the family within fifteen (15) 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.

#### PHA Policy

The family may request to reschedule a hearing for good cause or if it is needed as a Reasonable Accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the PHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the family does not appear at the scheduled time and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the 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.



***Pre-Hearing Right to Discovery*** [[24 CFR §982.555\(e\)](#)]

Participants and PHAs are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

For the purpose of Informal Hearings, *documents* include records and regulations.

**PHA Policy**

The family will be allowed to copy any documents related to the hearing at no cost to the family. The family must request discovery of the PHA documents at the time the hearing is requested.

the PHA must be given an opportunity to examine, at the PHA offices, before the hearing, any family documents that are directly relevant to the hearing.

When a participant requests an Informal Hearing, the PHA will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 p.m. PST on the business day prior to the scheduled hearing date.

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 the PHA, 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***

PHA Policy

Hearings may be attended by a hearing officer and the following applicable persons:

The PHA representative(s) and any witnesses for the PHA;

The participant and any witnesses for the participant;

The participant's counsel or other representative;

The participant's interpreter; and

Any other person approved by the PHA as a Reasonable Accommodation for a person with a disability

***Conduct at Hearings***

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures. [[24 CFR §982.555\(e\)\(4\)\(ii\)](#)]

PHA Policy

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

### ***Evidence*** [[24 CFR §982.555\(e\)\(5\)](#)]

The PHA 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.

#### **PHA Policy**

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence:

**Oral evidence:** the testimony of witnesses;

**Documentary evidence:** a writing which is relevant to the case, for example, a letter written to the PHA. 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; and

**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. With the agreement of both parties, the hearing may allow the admission of 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.

### ***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.

In addition, within ten (10) business days after the date the hearing officer’s report is mailed to the PHA and the participant, the participant may appeal the decision. Such appeal must be made in writing and be mailed, emailed, faxed or hand-delivered to the PHA within the ten (10) business day period.

The request must demonstrate cause, supported by specific references to the hearing officer's report, why the appeal request should be granted and must include information not previously presented at hearing.

A rehearing or "appeal" may be requested for the purpose of rectifying any obvious mistake of law made during the hearing or any obvious injustice not known at the time of the hearing. It shall be within the sole discretion of the PHA to grant or deny the request for further hearing or rehearing. A further hearing may be limited to new information only that was not known or available at the time of the hearing.

### ***Hearing Officer's Decision*** [\[24 CFR §982.555\(e\)\(6\)\]](#)

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

### **PHA Policy**

In rendering a decision, the hearing officer will consider the following matters:

**PHA Notice to the Family:** The hearing officer will determine if the reasons for the PHA's decision are factually stated in the Notice.

**Discovery:** The hearing officer will determine if the PHA and the family were given the opportunity to examine any relevant documents, in accordance with PHA policy.

**PHA Evidence to Support Decision:** The evidence consists of facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA'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 PHA policies. If the grounds for termination are not specified in the regulations or in compliance with the PHA policies, then the decision of the PHA will be overturned.

The hearing officer will issue a written decision to the family and the PHA no later than fifteen (15) business days after the hearing. The report will contain the following information:

### **Hearing information:**

- Name of the participant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of the PHA 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 their testimony and 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 is determined by the greater weight of all the evidence, rather than the number of witnesses.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.

**Order:** The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the participant's program status.

#### ***Issuance of Decision [24 CFR 982.555(e)(6)]***

A copy of the hearing must be furnished promptly to the family.

##### **PHA Policy**

The hearing officer will mail a "Notice of Hearing Decision" to the PHA and to the participant on the same day. This notice will be sent by first-class mail. The participant will be mailed the original "Notice of Hearing Decision" and a copy of the proof of mailing. A copy of the "Notice of Hearing Decision" will be maintained in the PHA's file.

#### ***Effect of Final Decision [24 CFR 982.555(f)]***

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements or are otherwise contrary to Federal, State or local laws.

If the PHA determines it is not bound by the hearing officer's decision, in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

##### **PHA Policy**

The Executive Director has the authority to determine that the PHA is not bound by the decision of the hearing officer because the PHA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state or local laws.

In such a case, the PHA will mail a “Notice of Final Decision” to the PHA and the participant on the same day. The “Notice of Final Decision” will be sent by first-class mail. A copy of the notice will be maintained in the PHA’s file.

#### **16-III.D. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR§5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an Informal Hearing, not an Informal Review.

Assistance to a family may not be delayed, denied or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending; however, assistance to an applicant may be delayed pending the completion of the Informal Hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA 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 the PHA 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; however, assistance may be delayed during the period of the Informal Hearing process.

**USCIS Appeal Process [24 CFR §5.514(e)]**

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

**PHA Policy**

the PHA will notify the family in writing of the results of the USCIS secondary verification within fifteen (15) business days of receiving the results.

The family must provide the PHA with a copy of the written request for appeal and proof of mailing within ten (10) business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an Informal Hearing.

**PHA Policy**

The PHA will send written notice to the family of their right to request an Informal Hearing within fifteen (15) business days of receiving notice of the USCIS decision regarding the family's immigration status.

**Informal Hearing Procedures for Applicants [24 CFR §5.514(f)]**

After notification of the USCIS decision on appeal or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA's notice of denial or within 30 days of receipt of the USCIS appeal decision.

***Informal Hearing Officer***

PHAs 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***

At a reasonable time in advance of the hearing, the family must be provided the opportunity to examine and copy any documents in the PHA's possession pertaining to the family's eligibility status, at the family's expense, or documents in the possession of USCIS (as permitted by USCIS requirements). This includes any records and regulations that may be relevant to the hearing.

#### **PHA Policy**

The family will be allowed to copy any documents related to the hearing at a cost \$.25 per page. The family must request discovery of the PHA documents. No later than 12:00pm on the business day prior to the hearing.

Before the hearing, the PHA must be given an opportunity to examine family documents that are directly relevant to the hearing at the PHA offices. When a participant requests an Informal Hearing, the PHA will automatically mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 p.m. PST on the business day prior to the scheduled hearing date.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA and to cross-examine all witnesses on whose testimony or information was relied upon by the PHA.

### ***Representation and Interpretive Services***

The family is entitled to be represented by an attorney or other designee, at the family's expense and to have such person make statements on the family's behalf. The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family or the PHA, as may be agreed upon by the two parties.

### ***Recording of the Hearing***

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

#### **PHA Policy**

The PHA will not provide a transcript of an audio taped hearing.

### ***Hearing Decision***

PHAs must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the Informal Hearing. The decision must state the basis for the decision.



**Informal Hearing Procedures for Residents [24 CFR §5.514(f)]**

After notification of the USCIS decision on appeal or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA's notice of termination or within 30 days of receipt of the USCIS decision. (Section 16-III.C)

**Retention of Documents [24 CFR §5.514(h)]**

The PHA must retain, for a minimum of five (5) years, the following documents that may have been submitted to the PHA by the family or provided to the PHA as part of the USCIS appeal or the 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 and request for USCIS appeal;
- The final USCIS determination;
- Informal Hearing documents.

## **PART IV: OWNER OR FAMILY DEBTS TO THE PHA [24 CFR §982.54]**

### **16-IV.A. OVERVIEW**

PHAs are required to include in the Administrative Plan, policies concerning repayment by a family of amounts owed to the PHA [24 CFR 982.54]. If 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 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 [24 CFR 982.552(c)(1)(vii)]. This part describes the PHA's policies for recovery of monies owed to the PHA by families or owners.

#### PHA Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the PHA holds the owner or participant liable to return any overpayments to the PHA.

The PHA will enter into Repayment Agreements in accordance with the policies contained in this part as a means to recover overpayments.

### **16-IV.B. REPAYMENT POLICY**

#### **Owner Debts to the PHA**

##### PHA Policy

Any amount due to the PHA by an owner must be repaid within 30 days of the debt determination.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the PHA will reduce future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the PHA may, in their sole discretion, offer to enter into a Repayment Agreement on terms prescribed by the PHA.

When an owner refuses to repay monies owed to the PHA, the PHA will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil lawsuit
- State income tax set-off program

## **Family Debts to the PHA**

Families are required to reimburse the PHA if they were charged less rent than required because the family either underreported or failed to report income. PHAs are required to determine retroactive rent amounts as far back as the PHA has documentation of family unreported income [Notice PIH 2018-18].

### **PHA Policy**

Any amount owed to the PHA by an HCV family must be repaid by the family. If the family is unable to repay the debt within 30 days, the PHA may offer to enter into a repayment agreement in accordance with repayment policies.

## **Refusal to Enter into an Agreement**

If the family refuses to repay the debt, does not enter into a Repayment Agreement or breaches an Agreement, the PHA must terminate assistance [Notice PIH 2018-18].

### **PHA Policy**

When a family refuses to repay monies owed to the PHA, in addition to termination of program assistance, the PHA will utilize other available collection alternatives including, but not limited to, the following:

Collection agencies

Small claims court

Civil lawsuit

State income tax set-off program

## **Repayment Agreement [24 CFR §792.103]**

The term Repayment Agreement refers to a formal written document signed by a family or owner and provided to the PHA in which a family or owner acknowledges a debt in a specific amount and agrees to repay the amount at specific time periods.

## **General Repayment Agreement Guidelines for families**

### ***Down Payment Requirement***

#### **PHA Policy**

Before executing a Repayment Agreement with a family, the PHA will generally require a down payment of 15 percent of the total amount owed. If the family can provide evidence satisfactory to the PHA that a down payment of 15 percent would impose an undue hardship, the PHA may, in its sole discretion, require a lesser percentage or waive the requirement.

### ***Payment Thresholds***

[Notice PIH 2018-18](#) recommends the total amount that a family must pay each month—the family’s monthly share of rent plus the monthly debt repayment amount— should not exceed 40 percent of the family’s monthly adjusted income. However, a family may already be paying 40 percent or more of monthly adjusted income in rent. Moreover, Notice PIH 2018-18 acknowledges that PHAs have the discretion to establish “thresholds and policies” for Repayment Agreements.

#### **PHA Policy**

the PHA has established the following thresholds for repayment of debts:

- Amounts between \$1 and \$500 must be repaid within 6 months.
- Amounts between \$501 and \$1,000 must be repaid within 12 months.
- Amounts between \$1,001 and \$2,500 must be repaid within 18 months.
- Amounts between \$2,501 and \$5,000 must be repaid within 30 months.
- Amounts between \$5,001 and \$7,500 must be repaid within 42 months.
- Amounts between \$7,501 and \$10,000 must be repaid within 54 months.
- Amounts more than \$10,001 must be repaid within 66 months.

### ***Execution of the Agreement***

All repayment agreements must be in writing, dated, and signed by both the family and the PHA [Notice PIH 2018-18].

#### **PHA Policy**

Any Repayment Agreement between the PHA and a family must be signed and dated by the PHA and the head of household and spouse/co-head (if applicable).

### ***Due Dates***

#### **PHA Policy**

All payments are due by the close of business on the 15<sup>th</sup> day of the month. If the 15<sup>th</sup> does not fall on a business day, the due date is the close of business on the first business day after the 15<sup>th</sup>.

## ***Late or Missed Payments***

### **PHA Policy**

the PHA may consider suspending the repayment requirement for 90 days if the PHA determines the payments were missed for good cause. This is a one- time suspension.

If a payment is not received by the end of the business day on the date due and prior approval for the missed payment has not been given by the PHA, the PHA will send the family a delinquency notice giving ten (10) business days to make the late payment. If the payment is not received by the due date of the delinquency notice, the PHA will send a default notice requiring the full amount of the remaining overpayment to be paid within five (5) calendar days.

If payment is not received by the due date of the default notice, it will be considered a breach of the agreement and the PHA will terminate assistance in accordance with the policies in Chapter 12.

If a family receives two delinquency notices for unexcused late payments in a 12-month period, the Repayment Agreement will be considered in default and the PHA will terminate assistance in accordance with the policies in Chapter 12.

## ***No Offer of Repayment Agreement***

### **PHA Policy**

the PHA generally will not enter into a Repayment Agreement with a family if there is already a Repayment Agreement in place with the family.

## ***Repayment Agreement Terms***

All repayment agreements must be in writing, dated, signed by both the family and the PHA, include the total retroactive rent amount owed, any amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. Notice PIH 2018-18 requires certain provisions, at a minimum, 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 must not only 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; and
- A statement that late or missed payments constitute default of the Repayment Agreement and may result in termination of assistance.

## **PART V: MANAGEMENT ASSESSMENT (SEMAP)**

### **16-V.A. OVERVIEW**

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure the PHA's performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

- High-performing PHAs can be given a competitive advantage under notices of funding availability. [24 CFR §985.103]
- PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD. [24 CFR §985.106]
- PHAs with an overall rating of “troubled” are subject to additional HUD oversight, including on-site reviews by HUD staff, a requirement to develop a corrective action plan and monitoring to ensure the successful implementation of the corrective action plan. In addition, “troubled” PHAs 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's Executive Director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required and the certification must be executed by the Section 8 program director.

PHAs with less than 250 Vouchers are only required to be assessed every other the 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 the PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of "troubled."

The 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 PIH Information Center (PIC) module and HUD determines 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 following below lists each of the SEMAP indicators, contains a description of each indicator and explains the basis for points awarded under each indicator.

<b>SEMAP Indicators Chart</b>
<b>Indicator 1: Selection from the Waiting List</b> <b>Maximum Score: 15</b> <ul style="list-style-type: none"><li>▪ This indicator shows whether the PHA has written policies for selecting applicants from the waiting list in its Administrative Plan and whether the PHA follows these policies when selecting applicants from the waiting list.</li><li>▪ 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 samples.</li></ul>
<b>Indicator 2: Rent Reasonableness</b> <b>Maximum Score: 20</b> <ul style="list-style-type: none"><li>▪ This indicator shows whether the PHA has and implements a reasonable written method to determine and document that the rent to owner is reasonable based on current rents for comparable unassisted units at the required times.</li><li>▪ 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.</li></ul>
<b>Indicator 3: Determination of Adjusted Income</b> <b>Maximum Score: 20</b> <ul style="list-style-type: none"><li>▪ This indicator measures whether the PHA verifies and correctly determines adjusted income, assets, expenses, and where applicable, uses the appropriate Utility Allowance in determining the gross rent.</li><li>▪ Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.</li></ul>
<b>Indicator 4: Utility Allowance Schedule Maximum Score: 5</b> <ul style="list-style-type: none"><li>▪ This indicator shows whether the PHA maintains an up-to-date Utility Allowance Schedule.</li><li>▪ Points are based on whether the PHA has reviewed the Utility Allowance Schedule and made adjustments when required.</li></ul>
<b>Indicator 5: NSPIRE Quality Control Inspections</b> <b>Maximum Score: 5</b> <ul style="list-style-type: none"><li>▪ This indicator shows whether a PHA supervisor re-inspects a sample of units under contract during the PHA's fiscal year.</li><li>▪ Points are based on whether the required quality control re-inspections were completed.</li></ul>



**Indicator 6: NSPIRE Enforcement****Maximum Score: 10**

- This indicator shows whether, following each inspection of a unit under contract where the housing unit fails to meet NSPIRE standards, 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 deficiencies in accordance with required time frames.

**Indicator 7: Expanding Housing Opportunities****Maximum Points: 5**

- Only applies to the PHA with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the PHA 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 areas where a unit may be leased, both inside and outside of the PHA's jurisdiction; and supplies a list of property owners 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 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**

- This indicator shows whether the PHA 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 less than two 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 tenant rent calculations.

**Indicator 11: Pre-Contract Inspections Maximum Points:****5**

- This indicator shows whether newly leased units pass 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 inspection on or before the effective date of the lease and HAP Contract.

**Indicator 12: Annual 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 leased units under contract that have been inspected within the PHA's timeframe.

**Indicator 13: Lease-Up Maximum****Points: 20 points**

- This indicator shows whether the PHA enters HAP Contracts for the number of units or funding reserved under ACC for at least one year.
- Points are based on the percent of units leased during the last completed PHA fiscal year or the percent of allocated budget authority that has been expended by the PHA, according to data from the PHA's last year- end operating statement that is recorded in HUD's accounting system.

**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.

**De-concentration 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<sup>th</sup> percentile rent, starting with the second full PHA fiscal year following initial use of Payment Standard amounts based on the FMRs set at the 50<sup>th</sup> 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**

PHAs 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](#); [24 CFR 908.101](#)]

During the term of each assisted lease and for at least three years thereafter, the PHA must keep:

- A copy of the executed lease;
- The HAP Contract; and
- The application from the family.
- In addition, the PHA must keep the following records for at least three years:
  - Records that provide income, racial, ethnic, gender and disability status data on program applicants and participants;
  - Applications and notices for each ineligible applicant;
  - HUD-required reports, including unit inspection reports;
  - Lead-Based paint records as required by 24 CFR 35, Subpart B.
  - Accounts and other records supporting the PHA's budget and financial statements for the program;
  - Records to document the basis for the PHA's 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 three years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three 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 three 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.

The PHA must keep confidential records of all emergency transfer requested by victims of domestic violence, dating violence, sexual assault, and stalking under the PHA's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of three years [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.

## **16-VI.C. RECORDS MANAGEMENT**

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

### PHA Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized the PHA staff.

The PHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion 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 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 the PHA 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*.

### PHA Policy

Prior to utilizing HUD's EIV system, the PHA will adopt and implement EIV security procedures in accordance with HUD requirements.

## **Criminal Records**

PHAs 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\(e\)\]](#)

PHAs must establish and implement a system of records management that ensures that any criminal record received 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's action without institution of a challenge or final disposition of any such litigation. [\[24 CFR §5.903\(g\)\]](#)

PHAs must establish and implement a system of records management that ensures that any sex offender registration information received 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's action without institution of a challenge or final disposition of any such litigation. This requirement does not apply to information that is public information or is obtained by a PHA other than under 24 CFR §5.905.

## **Medical/Disability Records**

PHAs are not permitted to inquire about the nature or extent of a person's disability. PHAs may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If a 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 or Stalking**

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence or stalking, see section 16-IX.E.



## **PART VII: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL**

### **16-VII.A. OVERVIEW**

PHAs have certain responsibilities relative to children with Environmental Intervention Blood Lead Levels (EIBLL) that receive HCV assistance. Notification, verification and hazard reduction requirements are discussed in Chapter 8. This part deals with PHA's reporting requirements, data collection and record keeping responsibilities.

### **16-VII.B. REPORTING REQUIREMENT [24 CFR §35.1225(e)]**

PHAs must report the name and address of a child identified as having an Environmental Intervention Blood Lead Level to the public health department within five (5) business days of being notified by any other medical health care professional.

#### PHA Policy

Upon notification by the owner, the PHA will provide the public health department written notice of the name and address of any child identified as having an elevated blood lead level within five business days.

Upon notification by the owner, the PHA will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five business days.

### **16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR §35.1225(f)]**

At least quarterly, PHAs 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 EIBLL.

If the PHA obtains names and addresses of Environmental Intervention Blood Lead Level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification and hazard reduction requirements discussed in Chapter 8 and the reporting requirement discussed above.

At least quarterly, PHAs must also report an updated list of the addresses of assisted units to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

#### PHA Policy

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the PHA is not providing such a report.





## **PART VIII: DETERMINATION OF INSUFFICIENT FUNDING**

### **16-VIII.A. OVERVIEW**

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 §982.314(e)(1) and [§982.454](#)] 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 there is sufficient funding to issue Vouchers, approve moves and to continue subsidizing all families currently under a HAP Contract.

### **16-VIII.B. METHODOLOGY**

#### PHA Policy

The PHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing the PHA's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, the PHA 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 and funding reserves, or if the PHA cannot support the cost of the proposed subsidy commitment (Voucher issuance or move) based on the funding analysis, the PHA will be considered to have insufficient funding.



## **PART IX: VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY**

### **16-IX.A. OVERVIEW**

The Violence Against Women Reauthorization Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking 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 apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and the PHA's policies in three areas: notification, documentation and confidentiality. Specific VAWA requirements and the PHA's 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 and Stalking";

10-I.A "Allowable Moves";

10-I.B "Restrictions on Moves";

12-II.E "Terminations Related to Domestic Violence, Dating Violence or Stalking"; and

12-II.F "Termination Notice."

### **16-IX.B. DEFINITIONS [24 CFR §5.2003]**

- 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 when 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 of violence committed by a current or former spouse or intimate partner 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 or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

- The term *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 *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 their safety or the safety of others or suffer substantial emotional distress.

## **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 the HCV program are aware of their rights under VAWA.

#### PHA Policy

The PHA will post the following information regarding VAWA in its offices and on its website. the PHA will also make the information readily available to anyone who requests it. (sample notices in Exhibits 16-1 and 16-2)

A summary of the rights and protections provided by VAWA to HCV program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault or stalking.

The definitions of *domestic violence*, *dating violence*, *sexual assault and stalking* provided in VAWA.

An explanation of the documentation that the PHA may require from an individual who claims the protections provided by VAWA.

A copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking.

A statement of the PHA's obligation to keep confidential any information received from a victim unless: (a) the PHA has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding or (b) it is compelled by law to release the information.

The National Domestic Violence Hotline: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

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 program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when assistance is denied, for admission to the HCV program and when a PHA sends notification of an eviction or termination of housing benefits.

#### PHA Policy

The PHA will provide all applicants with information about VAWA at the time of application for housing assistance. the PHA includes information about VAWA in all notices of denial of assistance (section 3-III.G).

The PHA will provide all participants with information about VAWA at the time of admission (see section 5-I.B). the PHA will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

VAWA information provided to applicants and participants will consist of the notice in Exhibit 16-1 and a copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault and Stalking.

In addition to Exhibit 16-1, the PHA has implemented an Emergency Transfer Plan, with associated recordkeeping and reporting requirements, as described in [Federal Register 2016-25888](#).

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a participant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

#### PHA Policy

Whenever the PHA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the PHA may decide not to send mail regarding VAWA protections to the victim's unit if the PHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the PHA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

**Notification to Owners and Managers [24 CFR §5.2005(a)(2)]**

PHAs are required to notify owners and managers participating in the HCV program of their rights and obligations under VAWA.

**PHA Policy**

the PHA will provide owners and managers with information about their rights and obligations under VAWA when program participation begins with the HCV program.

The VAWA information provided to owners will consist of the notice in Exhibit 16-2 and a copy of Form HUD-5382, Certification of Domestic Violence, Dating Violence and Stalking.



#### **16-IX.D. DOCUMENTATION** [[24 CFR Part 5, Subpart L, §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 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. PHAs 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 or stalking 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.

PHAs 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.

##### PHA Policy

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, 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. the PHA may, in its discretion, extend the deadline for ten (10) business days. Any extension granted by the PHA will be in writing.

**Conflicting Documentation** [[24 CFR Part 5, Subpart L, §5.2007\(e\)](#)]

In cases when 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 who is the true victim by requiring each person to provide acceptable third-party documentation, as described above (forms 2 and 3). 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.

**Discretion to Require No Formal Documentation** [[24 CFR Part 5, Subpart L, §5.2007\(d\)](#)]

PHAs have 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).

**PHA Policy**

If the PHA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault or stalking, the PHA will document acceptance of the statement or evidence in the individual's file.

**Failure to Provide Documentation** [[24 CFR Part 5, Subpart L, §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 VAWA protection.

**16-IX.E. CONFIDENTIALITY** [[24 CFR Part 5, Subpart L, §5.2007\(b\)\(4\)](#)]

All information provided to the PHA regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence or stalking, 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 without explicit authorization and 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.

**PHA 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  
Reauthorization Act of 2013 (VAWA) Form HUD-5380**

**Housing Authority of the City of Long Beach (the PHA)  
Notice of Occupancy Rights under the Violence Against Women Act<sup>1</sup>**

**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.<sup>2</sup> The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that the Section 8, Public Housing, and other covered housing programs 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 the Section 8, Public Housing or other covered housing 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.

**Protections for Tenants**

If you receive assistance under Section 8, Public Housing or other covered housing 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 Section 8, Public Housing or other covered housing 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.

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<sup>1</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> 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.

### **Removing the Abuser or Perpetrator from the Household**

the PHA 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 the PHA chooses to remove the abuser or perpetrator, the PHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the PHA must allow the tenant who is or was 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, the PHA must follow Federal, State, and local

eviction procedures. In order to divide a lease, the PHA may, but is not required to, ask you for documentation/certification of the incidences of domestic violence, dating violence, sexual assault or stalking.

### **Moving to Another Unit**

Upon your request, the PHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the PHA 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**
- (4) **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.

the PHA 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.

the PHA's emergency transfer plan provides further information on emergency transfers, and the

PHA must make a copy of its emergency transfer plan available to you if you ask to see it.

**Documenting You Are/Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

the PHA 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 the PHA must be in writing, and the PHA 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. the PHA 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 the PHA as documentation. It is your choice which of the following to submit if the PHA 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 the PHA 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 they believe that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the PHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the PHA does not have to provide you with the protections contained in this notice.

If the PHA 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), the PHA 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 when there is conflicting evidence, the PHA does not have to provide you with the protections contained in this notice.

## **Confidentiality**

the PHA 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.

the PHA must not allow any individual administering assistance or other services on behalf of the PHA (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.

the PHA must not enter your information into any shared database or disclose your information to any other entity or individual. the PHA, however, may disclose the information provided if:

- You give written permission to the PHA to release the information on a time limited basis.
- the PHA 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 the PHA or your landlord to release the information.

VAWA does not limit the PHA'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 when a family breaks up.

**Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance 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, the PHA 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 the PHA 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 the PHA can demonstrate the above, the PHA 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 local HUD Field Office.

**For Additional Information**

You may view a copy of HUD's final VAWA rule at:

<https://www.federalregister.gov/documents/2016/11/16/2016-25888/violence-against-women-reauthorization-act-of-2013-implementation-in-hud-housing-programs>.

Additionally, the PHA 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 PHA at (562) 570-6985.

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:

- **Long Beach Multi-Service Center, (562) 570-4500**, 1301 W. 12<sup>th</sup> Street, Long Beach CA
- **Interval House Hotline, (562) 594-4555**, 6615 E. Pacific Coast Hwy Suite 170, Long Beach CA

For tenants who are/have been victims of stalking seeking help may visit the National Center for Victims of

Crime's Stalking Resource Center: <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault and/or victims of stalking seeking help, you may contact:

- For emergencies: **call 9-1-1**
- For non-emergencies: **call LBPD Dispatch at (562) 435-6711**
- A uniformed police officer will respond to your location or victims may walk into any police station to report the incident.

**Attachment:** Certification Form HUD-5382.





<b>EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION, FORM HUD-5382</b>
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**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.

<b>EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING (HCV VERSION)</b>
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Attachment: Certification form HUD-5382

**[Insert name of covered housing provider]**

**Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking  
Housing Choice Voucher Program**

**Emergency Transfers**

The PHA 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),<sup>1</sup> the PHA 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.<sup>2</sup> The ability of the PHA 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 PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance 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 the **public housing and housing choice voucher (HCV) programs** are 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.

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<sup>1</sup>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.

<sup>2</sup>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.

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 PHA's management office and submit a written request for a transfer to **any PHA office**. The PHA 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 PHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

### **Confidentiality**

The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA 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 or persons that committed an act 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 PHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

### **Emergency Transfer Timing and Availability**

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The PHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA 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 PHA 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.

## **Emergency Transfers: Housing Choice Voucher (HCV) Program**

Tenant-based assistance: If you are a participant in the tenant-based HCV program and request an emergency transfer as described in this plan, the PHA will assist you to move to a safe unit quickly using your existing voucher assistance. The PHA will make exceptions to program regulations restricting moves as required.

At your request, the PHA will refer you to organizations that may be able to further assist you.

Project-based assistance: If you are assisted under the project-based voucher (PBV) program, you may request an emergency transfer under the following programs for which you are not required to apply:

- Tenant-based voucher, if available
- Project-based assistance in the same project (if a vacant unit is available and you determine that the vacant unit is safe)
- Project-based assistance in another development owned by the PHA

Emergency transfers under VAWA will take priority over waiting list admissions for these types of assistance.

You may also request an emergency transfer under the following programs for which you are required to apply:

- Public housing program
- PBV assistance in another development not owned by the PHA
- **[Insert other programs the PHA provides, such as LIHTC or HOME]**

Emergency transfers will not take priority over waiting list admissions for these programs. At your request, the PHA will refer you to organizations that may be able to further assist you.

## **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).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-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>.

**Attachment:** Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.



<b>EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, FORM HUD-5383</b>
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**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) \_\_\_\_\_



<b>MODEL OWNER NOTIFICATION OF RIGHTS AND OBLIGATIONS</b>
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[Insert Name of Housing Provider]

**NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS  
UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)**

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault and stalking.

**Purpose**

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault and stalking involve action by the public housing agency (PHA), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through **[insert name of housing provider]** HCV program. Each component of this Notice also provides citations to HUD's applicable regulations.

**Denial of Tenancy**

*Protections for applicants:* Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, or stalking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452(b)(1).)

**Eviction**

*Protections for HCV participants:* Incidents or threats of domestic violence, dating violence, sexual assault, or stalking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, or stalking, conducted by a member of a tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking (24 CFR 5.2005(b)(2)).

*Limitations of VAWA protections:*

a. Nothing in the VAWA Final Rule limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR 5.2005(d)(1)):

- 1) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or
- 2) The distribution or possession of property among members of a household in a case.

b. Nothing in the VAWA Final Rule limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, or stalking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, or stalking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)

c. Nothing in the VAWA Final Rule limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, or stalking) if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)

i. In this context, words, gestures, actions, or other indicators will be considered an “actual and imminent threat” if they meet the following standards: An actual and imminent threat consists of a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. 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, and the length of time before the potential harm would occur. (See 24 CFR 5.2003.)

ii. Any eviction due to “actual and imminent threat” should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

### **Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD’s regulation requires a covered housing provider to request this documentation. (See 24 CFR 5.2007(b)(3).)

If the owner chooses to request this documentation, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1):

- a. Form HUD-55383 (Self-Certification Form); or
- b. A document: 1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse:
  - 2) Signed by the applicant or tenant; and
  - 3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or
- c. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence (d).

The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, or stalking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR 5.2007(a)(2)). The owner may extend this time period at its discretion. During the 14 business day period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, or stalking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation or within the designated extension period, nothing in VAWA Final Rule may be construed to limit the authority of the covered housing provider to:

- a. Deny admission by the applicant or tenant to the housing or program;
- b. Deny assistance under the covered housing program to the applicant or tenant;
- c. Terminate the participation of the tenant in the covered housing program; or
- d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, or stalking at eviction or termination proceedings.

## **Moves**

A victim of domestic violence, dating violence, sexual assault, or stalking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

## **Lease Bifurcation**

Owners may choose to bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual. (See 24 CFR 5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR 5.2009(b). VAWA protections, including bifurcation, do not apply to guests or unreported members of a household or anyone else residing in a household who is not a tenant.

Eviction, removal, termination of occupancy rights, or termination of assistance must be effected in accordance with the procedures prescribed by federal, state, or local law for termination of leases.

To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

## **Evictions Due to “Actual and Imminent Threat” or Violations Not Premised on Abuse**

The VAWA Final Rule generally prohibits eviction on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for assistance, participation or occupancy. (See 24 CFR 5.2005.)

However, the VAWA Final Rule does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. Nor does the VAWA Final Rule prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).)

In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

Actual and imminent threat refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. 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; and
- The length of time before the potential harm would occur.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

## **Confidentiality**

Any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be maintained in strict confidence by the covered housing provider. (See 24 CFR 5.2007(c).)

Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim).

The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

- a. Requested or consented to in writing by the individual (victim) in a time-limited release;
- b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- c. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

## Service Providers

[insert name of housing provider] has extensive relationships with local service providers. [insert name of housing provider] staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in [insert name of housing provider] Annual and 5-Year Plan, Administrative Plan, VAWA Notice of Occupancy Rights, and Emergency Transfer Plan. A list of local service providers is attached to this Notice.

## Definitions

**Actual and imminent threat** refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. 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, and the length of time before the potential harm would occur.

**Affiliated individual**, with respect to an individual, means:

- (1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
- (2) Any individual, tenant, or lawful occupant living in the household of that individual.

**Bifurcate** means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Dating violence** means 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:
  - (i) The length of the relationship;
  - (ii) The type of relationship; and
  - (iii) The frequency of interaction between the persons involved in the relationship.

**Domestic violence** includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner 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 or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.



**Sexual assault** means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(1) Fear for the person's individual safety or the safety of others; or

(2) Suffer substantial emotional distress.

**VAWA** means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

**Attached:**

Legal services and the domestic violence resources for the Metro area

Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

[insert name of housing provider] VAWA Notice of Occupancy Rights

## Chapter 17

### PROJECT-BASED VOUCHERS

#### INTRODUCTION

This chapter describes U.S. Department of Housing and Urban Development (HUD) regulations and the Housing Authority of the City of Long Beach (The PHA) 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. It describes the factors Public Housing Agencies (PHAs) consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance for projects assistance, subsidy layering requirements, site selection standards and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to NSPIRE standards, the type and frequency of inspections and housing accessibility.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP Contract requirements and policies including the execution, term and termination of the HAP Contract. In addition, it describes how the HAP Contract may be amended and identifies provisions that may be added to the HAP Contract at The PHA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how The PHA and the owner selects a family for 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 housing units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined and how rent will be re-determined throughout the life of the HAP Contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.



## **PART I: GENERAL REQUIREMENTS**

### **17-I.A. OVERVIEW [24 CFR §983.5]**

The Project-Based Voucher (PBV) program allows PHAs that already administer a tenant-based Voucher program under an Annual Contributions Contract (ACC) with HUD to take up to 20 percent of its Voucher program budget authority and attach the funding to specific units rather than using it for tenant-based assistance. [24 CFR

§983.6] PHAs may only operate a PBV program if doing so is consistent with the PHA's Annual Plan and the goal of deconcentrating poverty and expanding housing and economic opportunities. [42 U.S.C. §1437f(o)(13)]

#### **PHA Policy**

The PHA will operate a Project-Based Voucher program using up to 20 percent of its budget authority for project-based assistance.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing. [24 CFR §983.52] If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP Contract, the PHA is not required to reduce the number of units if the amount of budget authority is subsequently reduced. However, the PHA is responsible for determining the amount of budget authority that is available under the ACC for Project-Based Vouchers. [24 CFR §983.6]

### **Additional Project-Based Units [FR Notice 1/18/17; Notice PIH 2017-21; FR Notice 1/24/22]**

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.

For units under a HAP contract that was first executed on or after April 18, 2017, 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.

PBV units that house eligible youth receiving FUPY/FYI assistance are also covered by this 10 percent exception authority if the units are under a HAP contract that became effective after December 27, 2020, and if the unit is occupied by an eligible youth receiving FUPY/FYI assistance. FYI TPVs that were awarded under Notice PIH 2019-20 are not part of this exception since PHAs are prohibited from project-basing FYI TPVs. Units added

after December 27, 2020, through an amendment of a HAP contract that became effective after December 27, 2020, are eligible for this 10 percent exception authority. In contrast, units added after December 27, 2020, through an amendment of a HAP contract that became effective on or prior to December 27, 2020, are not eligible for this 10 percent exception authority [FR Notice 1/24/22]. See Chapter 19 for policies specific to project-basing FUPY vouchers.

#### PHA 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.

#### PHA Policy

The PHA may project-base units not subject to the 20 percent cap in accordance with HUD regulations and requirements.

### **17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHERS [24 CFR §983.2]**

Much of the tenant-based Voucher program regulations also apply to the PBV program. Consequently, many of the PHA's 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.

#### PHA 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 PBV program and its participants.

### **17-I.C. RELOCATION REQUIREMENTS [24 CFR §983.7]**

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) [42

U.S.C. §§4201-4655] and implementing regulations at 49 CFR Part 24.

The cost of required relocation assistance may be paid with funds provided by owners, local public funds or funds available from other sources. PHAs may not use HCV funding to cover relocation costs, except that PHAs may use Administrative Fee Reserves to pay for relocation expenses, after all other administrative expenses are satisfied and the relocation benefits is consistent with state and local law.

Use of Administrative Fee Reserves for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR

§982.155 and other official HUD issuances. The acquisition of real property for a PBV project is subject to the URA and 49 CFR Part 24, subpart B. It is the responsibility of the PHA to ensure that the owner complies with these requirements.

### **17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR §983.8]**

PHAs must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR §5.105(a). In addition, the PHA must comply with the PHA's 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**

PHAs must describe the procedures for owner submission of proposals and for selection of PBV proposals. [24 CFR §983.51] Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR §§983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR §983.56, FR Notice 11/24/08] and meets the site selection standards. [24 CFR §983.57] PHAs may not commit PBVs until or unless the proposal selection requirements are followed, as defined in 24 CFR §983.51. [Notice PIH 2011-54]

### **17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR §983.51(b)]**

PHAs must select PBV proposals in accordance with the PHA's selection procedures by either one of the following two methods.

- PHA request for PBV Proposals. PHAs may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA's request. PHAs 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.
- PHAs 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 program, 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 LIHTC units, for proposals selected in accordance with the 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.

### **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 NSPIRE standards.

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.

#### PHA Policy

The PHA will not attach PBVs to projects owned by the PHA as described above.

#### **Solicitation and Selection of PBV Proposals [24 CFR §983.51(c)]**

The PHA's procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the PHA's request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

#### PHA Policy

##### The PHA Request for Proposals for Rehabilitated and Newly Constructed Units

The PHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in local newspapers of general circulations and local trade journals.

Signal Hill Tribune

The Khmer Post

The Long Beach Times

West Coast Publishing Corporation (Gazette)

Press Telegram

Asian Journal

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, The PHA will post the RFP and proposal submission and rating and ranking procedures on its website.

The PHA will publish its advertisement in the newspapers and trade journals for at least one day per week for three consecutive weeks. The advertisement will specify the number of units The PHA estimates that it will be able to assist under the funding The PHA is making available. Proposals will be due in The PHA office by close of business 30 calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to The PHA by the published deadline date and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The PHA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Extent to which the project furthers The PHA 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 assisted housing units will be assisted will be rated higher than projects where 25 percent or more of assisted housing 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 assisted units. Projects with the lowest percentage of assisted units will receive the highest score.

#### PHA Requests for Proposals for Existing Housing Units

PHAs will advertise its request for proposals (RFP) for existing housing in the local newspapers and trade journals.

Signal Hill Tribune

The Khmer Post

The Long Beach Times

West Coast Publishing Corporation (Gazette)

Press Telegram

Asian Journal

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, PHAs will post the notice inviting such proposal submission and the rating and ranking procedures on its website.

PHAs will periodically publish its advertisement in the newspapers and trade journals for at least one day per week for three consecutive weeks. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the PHA is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

- Experience as an owner in the tenant-based Voucher program and owner compliance with the owner's obligations under the tenant-based program;
- Extent to which the project furthers the PHA's 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.

PHA Selection of Proposals Subject to a Previous Competition under a Federal, State or Local Housing Assistance Program

PHAs 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.

PHAs may periodically advertise that the opportunity to submit proposals in local newspapers and trade journals.

Signal Hill Tribune  
 The Khmer Post  
 The Long Beach Times  
 West Coast Publishing Corporation (Gazette)  
 Press Telegram  
 Asian Journal

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, PHAs 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. PHAs will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers The PHA 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 PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that PHA-owned units were appropriately selected based on the selection procedures specified in the PHA's Administrative Plan. This also applies to noncompetitive selections. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA's 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 initial contract rent must be approved by an independent entity based on an appraisal by a licensed, state-certified appraiser. In addition, an independent entity must determine the initial rent to owner, the redetermined rent to owner, and reasonable rent. NSPIRE inspections must also be conducted by an independent entity.

The independent entity that performs these program services may be the housing unit of general local government for the PHA's jurisdiction (unless the PHA is itself the housing unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

**PHA Policy**

The PHA has no agency owned units.

PHAs may only compensate the independent entity and appraiser from the PHA's ongoing administrative fee income (including amounts credited to the Administrative Fee Reserve). PHAs may not use other program receipts to compensate the independent entity and appraiser for their services. The PHA, independent entity and appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity.

**PHA's Notice of Owner Selection [24 CFR §983.51(d)]**

PHAs 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.

**PHA Policy**

Within fifteen (15) business days of the PHA making the selection, the PHA will notify the selected owner in writing of the owner's selection for the PBV program. the PHA will also notify unselected owners in writing that submitted proposals and advise such owners of the name of the selected owner.

In addition, the PHA will publish a notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals the PHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. the PHA will also post the notice of owner selection on its electronic web site.

The PHA will make available to any interested party its rating and ranking sheets and documents that identify the PHA basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. The PHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The PHA will make these documents available for review at the PHA during normal business hours. The cost for reproduction of allowable documents will be \$.10 per page.

**17-II.C. HOUSING TYPE [24 CFR §983.52]**

PHAs 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 the PHA's selection, the housing units substantially comply with NSPIRE standards. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing.

PHAs must decide what housing type, new construction, rehabilitation or existing housing, will be used to develop project-based housing. The PHA's choice of housing type must be reflected in the solicitation for proposals.

## **17-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS**

### **Ineligible Housing Types [24 CFR §983.53]**

PHAs 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, the PHA may not attach or pay PBV assistance for a unit occupied by an owner and the PHA may not select or enter into an agreement to enter into a HAP Contract or HAP Contract for a unit occupied by a family ineligible for participation in the PBV program.

### **Subsidized Housing [24 CFR §983.54]**

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 PHAs may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state or local housing subsidy, as determined by HUD or the PHA in accordance with HUD requirements.

## **17-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR §983.55, FR Notice PIH 2013-11, and FR Notice 2/28/20]**

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 2/28/20 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 an 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.

## **17-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT**

### **25 Percent per Project Cap [24 CFR §983.56(a), FR Notice 1/18/17, and Notice PIH 2017-21]**

In general, PHAs may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP Contract to provide PBV assistance for units in a project if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP Contract is more than 25 percent of the number of dwelling units (assisted or unassisted) in the project.

### **Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17; Notice PIH 2017-21; FR Notice 1/24/22]**

Exceptions are allowed and PBV units are not counted against the 25 percent per project cap if:

- The units are in a single-family building (one to four units);
- The units are *excepted units* in that are specifically made available for elderly or disabled families or families receiving supportive services (also known as *qualifying families*).

A PHA must include 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 in its Administrative Plan. It is not necessary that the services be provided at or by the project, if the services are approved. To qualify, a family must have at least one member receiving at least one qualifying supportive service. A PHA may not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered.

A housing unit continues to count as an excepted unit for as long as the family resides in the housing unit, if, the family received Family Self-Sufficiency (FSS) supportive services or any other supportive services as defined in the PHA's Administrative Plan, at the time of initial tenancy and while a resident of an excepted unit, and successfully completes an FSS Contract of Participation or the supportive services requirement.

PHAs must monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. The PHA's Administrative Plan must state the form and frequency of such monitoring.

#### **PHA Policy**

The PHA will develop housing for occupancy by elderly families and families in need of services. This may include disabled families, families in need of particular supportive services, or families participating in the Family Self-Sufficiency (FSS) program. Families will not be required to accept and receive supportive services for the exception to apply to the unit, although they will be required to be eligible to receive supportive services. The following types of services will be provided depending on the needs of the family:

- Meal service adequate to meet nutritional needs;
- Housekeeping aid;



Personal assistance;  
Transportation services;  
Health-related services;  
Case management;  
Child care;  
Educational and employment services;  
Job training;  
Counseling; or  
Other services designed to help the recipient live in the community as independently as possible.

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.

If the family becomes ineligible for the supportive service during their tenancy (for reasons other than successfully completing the supportive service objective), the unit will no longer be considered an excepted unit. If the family is ineligible for all supportive services that are made available at the project, the PHA may do any of the following:

Reduce the number of excepted units  
Substitute the excepted unit for a non-excepted unit  
Temporarily remove the unit from the PBV HAP contract and provide the family with tenant-based assistance

### **Projects not Subject to a Project Cap [FR Notice 1/18/17; Notice PIH 2017-21]**

The PHA does not have any PBV units that are subject to the per project cap exception.

### **Promoting Partially Assisted Buildings [24 CFR §983.56(c)]**

A PHA may establish local requirements designed to promote PBV assistance in partially assisted buildings. A *partially assisted building* is a building in which there are fewer units covered by a HAP Contract than residential units. [24 CFR §983.3]

A PHA may establish a per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multi-family building containing excepted units or in a single-family building. A PHA may also determine not to provide PBV assistance for excepted units or the PHA may establish a per-building cap of less than 25 units or 25 percent of units.

### **PHA Policy:**

Excepted units will be limited to units for elderly families.

The PHA will provide assistance for excepted units.

## 17-II.G. SITE SELECTION STANDARDS

### **Compliance with PBV Goals, Civil Rights Requirements and NSPIRE Site Standards [24 CFR §983.57(b)]**

PHAs may not select a proposal for existing, newly constructed or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP Contract or HAP Contract for units on the site, unless the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR §903 and the PHA's Administrative Plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations and Executive Orders and that the site meets NSPIRE site and neighborhood standards at [24 CFR §5.703](#)

#### PHA Policy

It is the PHA's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal, the PHA will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the PHA will grant exceptions to the 20 percent standard when the PHA 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 when 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)]**

PHAs may not enter into an agreement to enter into a HAP Contract nor enter into a HAP Contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

**New Construction Site and Neighborhood Standards [24 CFR §983.57(e)]**

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

- The site must be adequate in size, exposure and contour to accommodate the number and type of units proposed;
- The site must have adequate utilities and streets available to service the site;
- The site must not be located in an area of minority concentration unless the PHA 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]**

PHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR Parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42

U.S.C. §4321 et seq.). PHAs 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.

PHAs may not enter into an agreement to enter into a HAP Contract or a HAP Contract with an owner and the PHA, the owner and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

PHAs must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. PHAs 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 NSPIRE inspections.

### **17-III.B. NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE [24 CFR §983.101]**

NSPIRE standards for the tenant-based program, including those for Special Housing types, generally apply to the PBV program. NSPIRE 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.

#### **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. PHAs 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)]**

PHAs must examine the proposed site before the proposal selection date. If the housing units to be assisted already exist, the PHA must inspect all the housing units before the proposal selection date and must determine whether the housing units substantially comply with NSPIRE. To qualify as existing housing, units must substantially comply with NSPIRE on the proposal selection date. However, the PHA may not execute the HAP Contract until the housing units fully comply with NSPIRE.

**Pre-HAP Contract Inspections [24 CFR §983.103(b) FR Notice 1/18/17, and Notice PIH 2017-20]**

PHAs 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 NSPIRE, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial NSPIRE inspection as a result of only non-life-threatening conditions, or if the unit passed an alternative inspection.

PHA Policy

The PHA will not provide assistance on behalf of the family until the unit fully complies with NSPIRE.

**Turnover Inspections [24 CFR §983.103(c)]**

Before providing assistance to a new family in a contract unit, the PHA must inspect the housing unit. PHAs may not provide assistance on behalf of the family until the housing unit fully complies with NSPIRE.

**Annual/Biennial Inspections [24 CFR §983.103(d)]**

At least biennially during the term of the HAP Contract (or at least triennially for small rural PHAs), PHAs 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 NSPIRE. Turnover inspections are not counted toward meeting this annual inspection requirement. The PHA also has the option in certain mixed finance properties to rely on alternative inspections conducted at least triennially.

PHA Policy

The PHA will inspect on an annual 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 NSPIRE.

If more than 20 percent of the annual sample of inspected contract units in a building fails the initial inspection, PHAs must re-inspect 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

#### **PHA Policy**

\_\_\_\_\_The PHA will not rely on alternative inspection standards.

### **Other Inspections [24 CFR §983.103(e)]**

PHAs must inspect contract units when needed to determine that the contract units comply with NSPIRE standards and that the owner is providing maintenance, utilities and other services in accordance with the HAP Contract. PHAs must take into account complaints and any other information coming to its attention in scheduling inspections.

PHAs must conduct follow-up inspections needed to determine if the owner or, if applicable the family, has corrected an NSPIRE deficiency, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family NSPIRE deficiencies.

In conducting the PHA supervisory quality control inspections, the PHA should include a representative sample of both tenant-based and project-based units.

### **Inspecting PHA-Owned Units [24 CFR 983.103(f)]**

In the case of PHA-owned units, the inspections must be performed by an independent 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 entity, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.





## **PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS**

### **17-IV.A. OVERVIEW [24 CFR §983.151]**

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not, at a later date, be selected for PBV assistance as existing housing.

### **17-IV.B. AGREEMENT TO ENTER INTO A HAP CONTRACT**

In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA must enter into an agreement to enter into HAP Contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD. [24 CFR §983.152(a)]

In the Agreement, the owner agrees to develop the PBV contract units to comply with NSPIRE and the PHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP Contract with the owner for the contract units. [24 CFR §983.152(b)]

#### **Content of the Agreement [24 CFR §983.152(c)]**

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the [Fair Housing Act](#) and [Section 504 of the Rehabilitation Act of 1973](#) apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed;

- 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, when determined necessary by the PHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture or design over and above NSPIRE standards.

**Execution of the Agreement** [24 CFR §983.153, FR Notice 11/24/08]

The Agreement must be executed promptly after the PHA notice of proposal selection to the selected owner. Generally, the PHA may not enter into the Agreement with the owner until the Subsidy Layering Review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval. However, the PHA does not need to conduct a Subsidy Layering Review in the case of a HAP Contract for an existing structure or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

PHA Policy

The PHA will enter into the Agreement with the owner within fifteen (15) 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. Further, these Davis-Bacon requirements apply to existing PBV units when the nature of any work to be performed either before the execution of the HAP contract or within 18 months after execution constitutes project development. Any development initiated on existing units within 18 months after the effective date of the HAP contract on projects with nine or more contract units triggers Davis-Bacon requirements.

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 addendum to the HAP contract, Form HUD-5679, also includes the required labor standards clauses.

The owner, contractors and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR Part 5 and other applicable federal labor relations laws and regulations. the PHA must monitor compliance with labor standards.

### **Owner Disclosure [24 CFR §§983.154(d) and (e)]**

The Agreement and HAP Contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP Contract or HUD regulations.

#### **17-IV.D. COMPLETION OF HOUSING**

The Agreement must specify the deadlines for completion of the housing and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

##### **Evidence of Completion [24 CFR §983.155(b)]**

At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

- Owner certification that the work has been completed in accordance with NSPIRE and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the PHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

##### **PHA Policy**

The PHA will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. The PHA will specify any additional documentation requirements in the Agreement to enter into HAP Contract.

##### **PHA Acceptance of Completed Units [24 CFR §983.156]**

Upon notice from the owner that the housing is completed, the PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with NSPIRE standards and any additional requirements imposed under the Agreement. the PHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP Contract.

If the PHA determines the work was completed in accordance with the Agreement and the owner has submitted all required evidence of completion, the PHA will submit the HAP Contract for execution by the owner and then execute the HAP Contract.

## **PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)**

### **17-V.A. OVERVIEW [[24 CFR §982.202](#)]**

The PHA must enter into a HAP Contract with an owner for units that receive PBV assistance. The purpose of the HAP Contract is to provide Housing Assistance Payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP Contract term. The HAP Contract must be in the form required by HUD.

### **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 due to program accessibility requirements of [Section 504 of the Rehabilitation Act of 1973](#) and implementing regulations at 24 CFR Part 8;
- The HAP Contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set-aside for occupancy by qualifying families; and
- The initial rent to owner for the first 12 months of the HAP Contract term.

**Execution of the HAP Contract [24 CFR §983.204]**

PHAs may not enter into a HAP Contract until each contract unit has been inspected and the PHA has determined that the housing unit complies with the NSPIRE standards, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial inspection where no life-threatening conditions are present.

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 housing units have been completed in accordance with the agreement to enter into HAP and the owner furnishes all required evidence of completion.

**PHA Policy**

For existing housing, the HAP Contract will be executed within fifteen (15) business days of the PHA's determination that all units have passed inspection.

For rehabilitated or newly constructed housing, the HAP Contract will be executed within fifteen (15) business days of the PHA's determination that the housing units have been completed, in accordance with the agreement to enter into HAP, all units meet NSPIRE standards and the owner has submitted all required evidence of completion.

**Term of HAP Contract [FR Notice 11/24/08]**

PHAs may enter into a HAP Contract with an owner for an initial term of no less than one year and no more than 15 years.

**PHA Policy**

The term of all PBV HAP Contracts will be negotiated with the owner on a case- by-case basis.

At any time before expiration of the HAP Contract, the PHA may extend the term of the contract for an additional term of up to 15 years if the PHA determines an extension is appropriate to

continue providing affordable housing or to expand housing opportunities. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD.

#### PHA Policy

When determining whether or not to extend an expiring PBV contract, the PHA 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 housing 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 the PHA*** [24 CFR §983.205(c)]

The HAP Contract must provide that the term of the PHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by the PHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations and of funding under the ACC from such appropriations, to make full payment of Housing Assistance Payments payable to the owner for any contract year in accordance with the terms of the HAP Contract.

If it is determined that there may not be sufficient funding to continue Housing Assistance Payments for all contract units and for the full term of the HAP Contract, the PHA may terminate the HAP Contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

***Termination by Owner*** [24 CFR §983.205(d)]

If, in accordance with program requirements, the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP Contract term, the owner may terminate the HAP Contract by giving notice to the PHA. In this case, assisted families must be offered tenant-based assistance.

## **Statutory Notice Requirements: Contract Termination or Expiration** [[24 CFR §982.206](#)]

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 NSPIRE Deficiencies** [[24 CFR §982.207\(b\)](#)]

PHAs may not make any HAP payment to the owner for a contract unit during any period in which the housing unit does not comply with NSPIRE standards. If the PHA determines that a contract does not comply with NSPIRE standards, 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.

### **PHA Policy**

The PHA will abate and terminate PBV HAP Contracts for non-compliance with NSPIRE 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 §982.206\(a\)](#)]

At the PHA's discretion and subject to all PBV requirements, the HAP Contract may be amended to substitute a different unit with the same number of bedrooms in the same building for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the housing unit.

### **Addition of Contract Units** [FR Notice 1/18/17 and Notice PIH 2017-21]

At the PHA's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per building and on the overall size of the PHA's PBV program, a HAP Contract may be amended during the three-year period following the execution date of the HAP Contract to add additional PBV units in the same building. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

#### PHA 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 §982.206\(c\)](#) and 983.302(e)]

The HAP Contract year is the period of 12 calendar months preceding each annual anniversary of the HAP Contract during the HAP Contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP Contract.

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 when 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 §983.209]**

When an owner executes a HAP Contract certification is made 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 NSPIRE;
- 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 assisted 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;
- The family does not own or have any interest in the contract unit; and
- 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.

## **17-V.F. ADDITIONAL HAP REQUIREMENTS**

### **Housing Quality and Design Requirements [24 CFR §§983.101(e) 207(a)]**

The owner is required to maintain and operate the contract units and premises in accordance with NSPIRE standards, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment and utilities specified in the HAP Contract in the lease. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building, as established by the owner.

PHAs 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 NSPIRE.

#### **PHA Policy**

The PHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The PHA will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP Contract and the HAP Contract.

### **Vacancy Payments [24 CFR §983.352(b)]**

At the discretion of the PHA, the HAP Contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner, including amounts available from the tenant's security deposit.

#### **PHA Policy**

The PHA will decide on a case-by-case basis if The PHA will provide vacancy payments to the owner. The HAP Contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.



## **PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS**

### **17-VI.A. OVERVIEW**

Many of the provisions of the Housing Choice 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)-(b)]**

PHAs may select families for the PBV program from those who are participants in the PHA's tenant-based Voucher program and from those who have applied for admission to the Voucher program. For Voucher participants, eligibility was determined at original admission to the Voucher program and does not need to be re-determined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

PBV applicants must meet the same eligibility requirements as applicants for the tenant-based HCV program. (see Chapter 3)

#### **PHA Policy**

The PHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3. Families must also be eligible for the specific developments (excepted units), requiring the supportive services provided through the development.

**In-Place Families** [24 CFR §983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the PHA is considered an “in-place family.” These families are afforded protection from displacement under the PBV rule.

If an existing unit or a unit requiring rehabilitation is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the PHA’s waiting list. Once the family’s eligibility is determined (PHAs may deny assistance to an in-place family for the grounds specified in [24 CFR §982.552](#) and [§982.553](#)), the family must be given an absolute selection preference and the PHA must refer the family to the project owner for an appropriately sized PBV unit. Eligible in-place PBV admissions are 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-VLC. ORGANIZATION OF THE WAITING LIST [24 CFR §983.251(c)]**

PHAs may establish a separate waiting list for PBV units or the same waiting list may be used for both tenant-based and project-based assistance. PHAs may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA's whole PBV program or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

### **PHA Policy**

The PHA will establish a separate waiting list for the PHA's entire PBV program.

## **17-VLD. SELECTION FROM THE WAITING LIST [24 CFR §983.251(c)]**

Applicants for PBV assistance must be selected from the PHA's waiting list. PHAs may establish selection criteria or preferences for occupancy of particular PBV units. PHAs may place families referred by the PBV owner on its PBV waiting list.

### **Income Targeting [24 CFR §983.251(c)(6)]**

At least 75 percent of admissions to the PHA's tenant-based and Project-Based Voucher programs during the fiscal year from the waiting list must be extremely low-income. Income targeting applies to total admissions to both programs.

### **Units with Accessibility Features [24 CFR §983.251(c)(7)]**

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

### **Preferences [24 CFR §983.251(d) and FR Notice 11/24/08]**

PHAs 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. PHAs must provide an absolute selection preference for eligible in-place families. (Section 17-VI.B)

Although the PHA is prohibited from granting preferences to persons with a specific disability, the PHA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to program participants:

- With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;
- Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and
- For whom such services cannot be provided in a non-segregated setting.

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has projects with more than 25 percent of the housing units receiving project-based assistance because those projects include “excepted units” (units specifically made available for elderly or disabled families or families receiving supportive services), the PHA must give preference to such families when referring families to these units. [24 CFR §983.261(b)]

#### PHA Policy

The PHA will utilize the following criteria for each project’s waiting list:

1. The PHA will use the same selection preferences that are used for the tenant-based Housing Choice Voucher program;
2. The PHA will provide a selection preference when required by HUD regulation, e.g. eligible in-place families, qualifying families for “excepted units”, persons with mobility impairments for accessible units;

	<b>Preference Title</b>	<b>Points</b>
a.	Eligible In-place Families	300
b.	Qualifying Families for “Excepted Unit”	300
c.	Persons with Mobility Impairments for Accessible Units	300

3. Additional site specific preferences, as required and/or administered by the individual project, for example:

<b><i>Property Name</i></b>	<b><i>Waiting List Type</i></b>	<b><i>Criteria</i></b>
American Goldstar Manor	PBV Combined	Residency for all except Gold Star Parent 62+
Anchor Place	Referred	No Residency Requirement for VASH Homeless/Family of Vet
Cabrillo Gateway	Referred	Residency Requirement/Low income
Long Beach & 21st	Referred	Residency Requirement 55+/Special Needs & Extremely Low Income(30%)
The Palace Apartments	Referred	Residency Requirement TAY Youth (18-24 years); Homeless or at the risk of homelessness
Sara's Apartments	PBV Combined	Residency Requirement/Low income families
Beacon Place	Referred	No Residency Requirement for VASH Homeless, chronically homeless Vets who have been honorably discharged & 4 designated to Vets not eligible for services through the VA
Beacon Pointe	Referred	Residency Requirement /Everyone in the household has to be 62 years old and over/Homeless/Low Income family/
The Spark at Midtown (Linc)	Sec 8 Wait List	Residency Requirement/Low income families
Las Ventanas (Amcal)	Sec 8 Wait List	Residency Requirement/Low income families
Goldstar Manor	Referred	No Residency Requirement /Parent of service member killed in the line of duty
Woodbridge	PBV Combined	Residency Requirement/Low income families
Plymouth West	PBV Combined	Residency Requirement 62+
Providence Gardens	PBV Combined	Residency Requirement 62+

4. If determined ineligible for The PHA's Project-Based Voucher program and/or the project's qualifying criteria, the applicant will be processed for denial.

## **17-VLE. OFFER OF PBV ASSISTANCE**

### **Refusal of Offer** [24 CFR §983.251(e)(3)]

The PHA is prohibited from taking any of the following actions against a family who has applied for, received or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based Voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant's waiting list placement based on preference, date and time of application or other factors affecting selection with the PHA's selection policy;
- Remove the applicant from the tenant-based Voucher waiting list.

### **Disapproval by Owner** [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's head of household 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, as discussed in Chapter 2.

In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

#### ***Persons with Limited English Proficiency***

The PHA should take reasonable steps to assure meaningful access by persons with Limited English Proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166. (see Chapter 2)

## **17-VLF. OWNER SELECTION OF TENANTS [24 CFR §983.253(a)(2)-(3)]**

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 a rejected applicant of the grounds for a rejection in writing.

### **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. 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.

#### PHA Policy

The owner must notify The PHA in writing (mail, fax or e-mail) within five (5) business days of learning about any vacancy or expected vacancy. The PHA will make every reasonable effort to refer families to the owner within fifteen (15) business days of receiving such notice from the owner.

### **Reduction in Contract Units Due to Vacancies [24 CFR §983.254(b)]**

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the PHA may give notice to the owner amending the HAP Contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

#### PHA Policy

If any contract units have been vacant for 120 days, The PHA may 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 PHA will provide the notice to the owner within fifteen (15) business days of the 120<sup>th</sup> day of the vacancy. The amendment to the HAP Contract will be effective the 1<sup>st</sup> day of the month following the date of The PHA's notice.

## **17-VLG. TENANT SCREENING [24 CFR §983.255]**

### **PHA Responsibility**

PHAs are not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, PHAs may opt to screen applicants for family behavior or suitability for tenancy and base HCV eligibility on such screening.

#### PHA Policy

The PHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

PHAs must provide the owner with an applicant family's current and prior address (as shown in the PHA records) and the name and address (if known by the PHA) of the family's current owner and any prior owners.

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 PHA Policy on providing information to owners and the PHA must give the same types of information to all owners.

PHAs may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence or stalking except at the written request or with the written consent of the individual providing the documentation. [24 CFR §5.2007(a)(4)]

#### PHA Policy

The PHA 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 inspection or before.

The PHA 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 is 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 housing 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 PHA model lease.

The PHA may review the owner's lease form to determine if the lease complies with state and local law. If the PHA determines that the lease does not comply with state or local law, the PHA may decline to approve the tenancy.

#### **PHA Policy**

The PHA 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 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 lease provisions.

**Initial Term and Lease Renewal [24 CFR §§983.256(f) and 983.257(b)]**

The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for “good cause,” or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the PHA must provide the family with a tenant-based Voucher and remove the housing unit from the PBV HAP Contract.

**Changes in the Lease [24 CFR §983.256(e)]**

If the tenant and owner agree to any change in the lease, the change must be in writing and the owner must immediately give the 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 current lease. The PHA must re-determine 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 re-determined 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 housing 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 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 the 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 [24 CFR §982.312\(a\)](#)] The owner may specify in the lease a maximum period of tenant absence from the housing unit that is shorter than the maximum period permitted by PHA Policy. According to program requirements, the family’s assistance must be terminated for absences from the housing unit for more than 180 consecutive days.

### **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 the lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rent 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 housing 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 §983.258]**

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.

**PHA Policy**

The PHA 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 housing 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 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. PHAs have no liability or responsibility for payment of any amount owed by the family to the owner.

## 17-VII.C. MOVES

### **Overcrowded, Under-Occupied and Accessible Units [24 CFR §983.259]**

If the PHA determines that a family is occupying the wrong sized unit based on Subsidy Standards or a unit with accessibility features that the family does not require, and the housing unit is needed by a family that requires 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.

#### PHA Policy

The PHA will notify the family and the owner of the family's need to move within fifteen (15) business days of the determination. The PHA will offer the family the following types of continued assistance in the following order, based on availability:

- PBV assistance in the same building or project;
- PBV assistance in another project; and
- Tenant-based Voucher assistance.

If the PHA offers the family a tenant-based Voucher, the PHA must terminate the Housing Assistance Payments for the wrong-sized/accessible unit at expiration of the term of the family's Voucher, including any extension granted by the PHA.

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 at the expiration of a reasonable time period.

#### PHA Policy

When The PHA offers a family another form of assistance that is not a tenant-based Voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit.

If the family does not move out within this 30-day time frame, The 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.

**Family Right to Move [24 CFR §983.260]**

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA. 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 these 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 upon termination of the family's lease in the PBV unit, the PHA must give the family priority to receive the next available opportunity for 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.

### **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.

#### **PHA Policy**

When the victim of domestic violence, dating violence, sexual assault, or stalking has lived in the unit for less than one year, the PHA will provide several options for continued assistance.

The PHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the PHA has PBV units. The PHA 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 tenant-based rental assistance (HCV).

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, the PHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

**17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP[24 CFR §983.261, FR Notice 11/24/08, [24 CFR §983.56]**

PHAs may not pay housing assistance under a PBV HAP Contract for more than 25 percent of the number of dwelling units in a project unless the housing units are:

- In a single-family building;
- Specifically made available for elderly or disabled families; or
- Specifically made available for families receiving at least one qualifying supportive service, as defined by the PHA.

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 housing unit continues to count as an excepted unit for as long as the family resides in the housing unit.

A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a “qualifying family” in connection with the 25 percent per project cap exception, e.g. the family does not successfully complete supportive services requirements or due to a change in family composition the family is no longer elderly or disabled, must vacate the housing 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.

If the family fails to vacate the housing unit within the established time, the housing 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 their family obligations to comply with supportive services requirements must be terminated by the PHA.

**PHA Policy**

The PHA will allow families who initially qualified for an excepted unit to remain when circumstances change beyond the remaining family members’ control.

In all other cases, when The PHA determines that a family no longer meets the criteria for a “qualifying family” in connection with the 25 percent per project cap exception, The PHA will provide written notice to the family and owner within fifteen (15) 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.

The PHA may refer other eligible families to the excepted units. However, if there are no eligible families on the waiting list and the owner does not refer eligible families to The PHA, the HAP Contract will be amended to reduce the total number of units under contract.





## **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 re-determined at the owner's request in accordance with program requirements and at such time that there is a ten percent or greater decrease in the published FMR.

### **17-VIII.B. RENT LIMITS [24 CFR §983.301]**

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the PHA, not to exceed 110 percent of the applicable Fair Market Rent (or any HUD-approved exception Payment Standard) for the housing unit bedroom size minus any Utility Allowance;
- The reasonable rent; or
- The rent requested by the owner.

#### **Certain Tax Credit Units [24 CFR §983.301(c), FR Notice 11/24/08]**

For certain tax credit units, the rent limits are determined differently than for other PBV units. The different limits apply to contract units that meet the following criteria:

- The unit receives a low-income housing tax credit under the IRS Code of 1986;
- The unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same building and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds a PHA-determined amount (not to exceed 110 percent of the Fair Market Rent or any approved exception Payment Standard);

For contract units that meet all of the above criteria, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any Utility Allowance;
- The reasonable rent; or
- The rent requested by the owner.

However, PHAs are permitted to use the higher Section 8 rent for a tax credit unit if the tax credit rent is less than the amount that would be permitted under Section 8. In these cases, Section 8 rent

reasonableness requirements must continue to be met.

### ***Definitions***

*Qualified census tract* is a census tract in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income or when the poverty rate is at least 25 percent and is designated as a qualified census tract by HUD.

*Tax credit rent* is the rent charged for comparable units of the same bedroom size in the building that also receives the low-income housing tax credit, but does not have any additional rental assistance, e.g. tenant-based Voucher assistance.

### **Reasonable Rent** [24 CFR §§983.301(e) and 983.302(c)(2)]

PHAs must determine reasonable rent in accordance with [24 CFR §982.303](#). The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases when the PHA has elected within the HAP Contract not to reduce rents below the initial rent to owner.

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 is 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.

### **PHA Policy**

The PHA will elect, within the HAP Contract, not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR §983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent results in a rent below the initial rent, The PHA will use the higher initial rent to owner amount.

## **Use of FMRs, Exception Payment Standards and Utility Allowances**

[24 CFR §983.301(f)]

When determining the initial rent to owner, the PHA 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, the PHA must use the most recently published FMR and the Utility Allowance Schedule in effect at the time of redetermination.

At its discretion, the PHA may for initial rent, use the amounts in effect at any time during the 30-day period immediately before the beginning date of the HAP Contract or for redeterminations of rent, the 30-day period immediately before the redetermination date.

Any HUD-approved exception Payment Standard amount under the tenant-based Voucher program also applies to the Project-Based Voucher program. HUD will not approve a different exception payment stand amount for use in the PBV program.

Likewise, the PHA 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.

### PHA Policy

Upon written request by the owner, the PHA will consider using the FMR or Utility Allowances in effect during the 30-day period before the start date of the HAP or redetermination of rent. The owner must explain the need to use the previous FMRs or Utility Allowances and include documentation in support of the request. The PHA will review and make a decision based on the circumstances and merit of each request.

In addition to considering a written request from an owner, the PHA may decide to use the FMR or Utility Allowances in effect during the 30-day period before the start date of the HAP or redetermination of rent, if The PHA determines it is necessary due to the PHA 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 doing 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.

### PHA Policy

The PHA will apply SAFMRs to the PHA's PBV program.

**Redetermination of Rent [24 CFR §983.302]**

PHAs must re-determine the rent to owner upon the owner's request or when there is a ten percent or greater decrease in the published FMR.

***Rent Increase***

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP Contract. (see Section 17-V.D)

The request must be in writing and in the form and manner required by the PHA. The PHA 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 housing units which have resulted from substantial general increases in real property taxes, utility rates or similar costs.

**PHA Policy**

An owner's request for a rent increase must be submitted to the PHA 60 days prior to the anniversary date of the HAP Contract and must include the new rent amount the owner is proposing.

The PHA 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 NSPIRE. 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 when the PHA has elected within the HAP Contract to not reduce rents below the initial rent under the initial HAP Contract.

***Notice of Rent Change***

The rent to owner is re-determined by written notice by the PHA to the owner specifying the amount of the re-determined rent. The PHA 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.

**PHA Policy**

The PHA will provide the owner and the family with at least 30 days written notice of any change in the amount of rent to owner.

### **17-VIII.C. REASONABLE RENT** [[24 CFR §982.303](#)]

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 housing unit as determined by the PHA.

#### **Required Rent Reasonable Determinations**

PHAs must re-determine reasonable rent for a unit receiving PBV assistance when:

- There is a ten percent or greater decrease in the published FMR in effect 60 days before the contract anniversary date, as compared with the FMR that was in effect one year before the contract anniversary date;
- the PHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP Contract is amended to substitute a different contract unit in the same building;  
or
- There is any other change that may substantially affect the reasonable rent.

#### **How to Determine Reasonable Rent**

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the housing 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 receive 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 HAP, based on the analyses may not have any direct or indirect interest in the property.

**Owner Certification of Reasonable Rent**

By accepting monthly Housing Assistance Payments, the owner certifies that the rent to owner is not more than rent charged for other comparable unassisted units in the premises. At any time, the PHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

**17-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL**

In addition to the rent limits discussed in Section 17-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance. (Section 17-II.D)

**Other Subsidy [24 CFR §983.304]**

At its discretion, the PHA may reduce the initial rent to owner due to other governmental subsidies, including grants and other subsidized financing. For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

***Combining Subsidy***

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

## **PART IX: PAYMENTS TO OWNER**

### **17-IX.A. HOUSING ASSISTANCE PAYMENTS (HAP) [24 CFR §983.351]**

During the term of the HAP Contract, PHAs 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 NSPIRE standards 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, PHAs may not make any Housing Assistance Payment to the owner for any month after the month the family moves out of the housing unit, even if household goods or property are left in the unit.

The amount of the Housing Assistance Payment is the rent to owner minus the tenant rent – the Total Tenant Payment minus the Utility Allowance.

In order to receive HAP, 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 housing 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.

#### PHA Policy

If the PHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to keep the Housing Assistance Payment, The PHA will notify the owner of the amount of Housing Assistance Payment that the owner must repay. The PHA 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 housing 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 housing unit was vacant during the period for which payment is claimed;
- The owner certifies that every reasonable action was taken 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.

#### PHA Policy

If an owner's HAP Contract calls for vacancy payments to be made and the owner wishes to receive vacancy payments, the owner must properly notify the PHA of the vacancy, in accordance with the policy in Section 17-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within ten (10) business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the PHA may require documentation to support the request. If the owner does not provide the information requested by the PHA within ten (10) business days of The PHA's request, no vacancy payments will be made.



### **17-IX.C. TENANT RENT TO OWNER** [\[24 CFR §982.353\]](#)

The tenant rent is the portion of the rent paid by the family. 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's notice.

The family is responsible for paying the tenant rent, i.e. 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 the 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 determined by the PHA and the owner must immediately return any excess payment to the tenant.

#### **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 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 housing unit.

The PHA may not use HAP or other program funds (including Administrative Fee Reserves) to pay any part of the tenant rent or other claims 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.

#### PHA Policy

The PHA will make utility reimbursements to the family.

## **17-IX.D. OTHER FEES AND CHARGES [24 CFR §983.354]**

### **Meals and Supportive Services**

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

### **Other Charges by Owner**

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

**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**

<b>Alternative Requirement under RAD as Listed in Notice PIH 2019-23</b>	<b>Standard PBV Policy That Does Not Apply</b>	<b>Applicable Policy in Chapter 18</b>
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 Utility Allowances	Alternative requirement under RAD. No corresponding policy in Chapter 17.	18-VII.C. UTILITY 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.  New admissions follow policies in 17-VII.B. LEASE, Continuation of Housing Assistance Payments.	18-VI.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.



**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 Homeless Services Bureau (HSB), as the lead agency for the Continuum of Care (CoC). 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

The PHA will not adopt any permissive prohibitions for the EHV program.

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 not admit applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. The PHA will follow HCV policies in Chapter 3 and 7 for the disclosure and documentation of these two factors of eligibility.

#### **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 not accept self-certification of date of birth or disability status for EHV families. The PHA will follow HCV policies in 7 for verification.

## **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 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's, 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's, 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's 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's 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's that are being reissued upon turnover after assistance to a family has ended. However, HUD may direct PHAs administering EHV's to cease leasing any unleased EHV's 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 EHVs 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 EHVs 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 EHVs in accordance with the HCV program requirements at 24 CFR 982.158.



<b>Exhibit TPS-1: MEMORANDUM OF UNDERSTANDING (MOU)</b>
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***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

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Executive Director, PHA

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Date

---

CoC Executive Director

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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:

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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: \_\_\_\_\_

<b>Exhibit TPS-3: EXAMPLE OF A VICTIM SERVICES PROVIDER'S CERTIFICATION</b>
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*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:** \_\_\_\_\_

# HOTMA Policy Supplement

## Overview

While full compliance with HOTMA is mandatory by January 1, 2025, PHAs select a HOTMA compliance date sometime in 2024 on which to begin fully applying all HOTMA provisions to their programs. All transactions with an effective date on or after that date must follow HOTMA regulations and the PHA's updated policies.

While the majority of HOTMA provisions cannot be implemented until the Housing Information Portal (HIP) and the PHA's software is ready, HUD encourages PHAs to implement certain specific provisions of HOTMA that do not require HIP implementation irrespective of the PHA's HOTMA compliance date. HUD described which provisions of HOTMA may be implemented early in FAQs published February 22, 2024. **All other provisions of HOTMA are not applicable until the PHA's HOTMA compliance date.**

The following details discretionary policies which HUD allows PHAs to implement prior to their HOTMA compliance date. Early adoption of such policies is optional. The PHA may adopt some, all, or none of the policies listed below prior to their HOTMA compliance date.

(Note: Although HUD's 2/22/24 FAQs list Zero Income Reviews (as described in Section J.8 of revised Notice PIH 2023-27) as an area where PHAs may adopt HOTMA policies prior to the PHA's implementation date, HOTMA did not make any significant changes in this area. The PHA may continue to use their current zero income policies. Therefore, no policy decision point has been listed below.)

## Instructions

For each topic listed below, indicate whether the PHA will implement the policy prior to the PHA's HOTMA compliance date:

- If the PHA will not implement a policy prior to their compliance date, check "PHA's HOTMA compliance date" below. **No other action is required.**
- If the PHA will implement a policy prior to the PHA's HOTMA compliance date, indicate the date on which the policy will be effective in the blank provided. All transactions on or after the date indicated will follow the policy. In this case, **insert the PHA's policy below under "PHA Policy"**.

## PHA HOTMA Policies

### **I. Earned Income Disallowance (EID)**

Since HOTMA removed the statutory authority for the EID as of January 1, 2024, regardless of the PHA's HOTMA compliance date, the PHA must not enroll any new families in the EID. This is mandatory. The EID is only available to families that were eligible for and participating on the program as of December 31, 2023, or before; no new families are to be added on or after January 1, 2024. If a family was receiving the EID prior to or on December 31, 2023, they are entitled to the full amount of the benefit for a full 24-month period. PHA policies governing the EID are applicable only to such families.

**Discretion:** None

**Implementation date:** January 1, 2024

### **II. Form HUD-9886-A**

Section J.1 of Notice PIH 2023-27 provides that PHAs were able to begin having families sign the new HUD-9886-A on January 1, 2024. While the PHA is not required to update its policies to begin using the new Form HUD-9886-A, the new form refers to the family's ability to revoke consent with respect to the PHA's ability to access financial records from financial institutions, unless the PHA establishes policies that revocation of consent will result in a denial of admission or termination of assistance. As such, if the PHA will begin using the new Form HUD-9886-A prior to the PHA's compliance date and adoption of such policy, the PHA should also implement policies governing revocation of consent at the same time.

**Implementation date** (select one):

☐ PHA's HOTMA compliance date

☒ Other (insert date): January 1, 2024

### **PHA Policy**

Family members turning 18 years of age between annual 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 annual or interim reexamination, whichever is earlier.

The PHA has established a policy that revocation of consent to access financial records will result in denial of admission.

**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.

### **PHA Policy**

The PHA 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 the PHA.

Within 10 business days of the date the family provides written notice, the PHA 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, the PHA will notify their local HUD office.

### **III. Verification Dated within 120 Days**

Section J.5 of Notice PIH 2023-27 contains updated the guidance for Level 4 documentation (Written Third-Party Verification) to include an original or authentic document generated by a third-party source dated within 120 days of the date received by the PHA, rather than 60 days as is currently required.

**Implementation date** (select one):

☐ PHA's HOTMA compliance date

☒ Other (insert date): October 1, 2024

### **PHA Policy**

In general, third-party documents provided by the family or the source must be dated within 120 days of the date received by the PHA. All references to the age of third-party verifications in the PHA's policy are replaced with 120 days.

#### **IV. Verification of Fixed Income Sources**

In accordance with Section J.5 of Notice PIH 2023-27, PHAs may accept a statement dated within the appropriate benefit year for fixed income sources.

**Implementation date** (select one):

☐ PHA's HOTMA compliance date

☒ Other (insert date): October 1, 2024

#### **PHA Policy**

For fixed income sources, a statement dated within the appropriate benefit year is acceptable documentation. Requirements that third-party verification be dated within 120 days do not apply, and all references to verification of fixed income sources throughout the policy are replaced.

## GLOSSARY

### **A. ACRONYMS USED IN THE HOUSING CHOICE VOUCHER (HCV) PROGRAM**

<b>AAF</b>	Annual adjustment factor (published by HUD in the <i>Federal Register</i> and used to compute annual rent adjustments)
<b>ACC</b>	Annual contributions contract
<b>ADA</b>	Americans with Disabilities Act of 1990
<b>AIDS</b>	Acquired immune deficiency syndrome
<b>BR</b>	Bedroom
<b>CDBG</b>	Community Development Block Grant (Program)
<b>CFR</b>	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
<b>CPI</b>	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
<b>EID</b>	Earned income disallowance
<b>EIV</b>	Enterprise Income Verification
<b>FDIC</b>	Federal Deposit Insurance Corporation
<b>FHA</b>	Federal Housing Administration (HUD Office of Housing)
<b>FHEO</b>	Fair Housing and Equal Opportunity (HUD Office of)
<b>FICA</b>	Federal Insurance Contributions Act (established Social Security taxes)
<b>FMR</b>	Fair market rent
<b>FR</b>	Federal Register
<b>FSS</b>	Family Self-Sufficiency (Program)
<b>FY</b>	Fiscal year
<b>FYE</b>	Fiscal year end
<b>GAO</b>	Government Accountability Office
<b>GR</b>	Gross rent
<b>HA</b>	Housing authority or housing agency
<b>HAP</b>	Housing assistance payment
<b>HCV</b>	Housing choice voucher
<b>HQS</b>	Housing quality standards
<b>HUD</b>	Department of Housing and Urban Development
<b>HUDCLIPS</b>	HUD Client Information and Policy System

<b>IPA</b>	Independent public accountant
<b>IRA</b>	Individual retirement account
<b>IRS</b>	Internal Revenue Service
<b>IVT</b>	Income Validation Tool
<b>JTPA</b>	Job Training Partnership Act
<b>LBP</b>	Lead-based paint
<b>LEP</b>	Limited English proficiency
<b>MSA</b>	Metropolitan statistical area (established by the U.S. Census Bureau)
<b>MTCS</b>	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
<b>MTW</b>	Moving to Work
<b>NOFA</b>	Notice of funding availability
<b>OGC</b>	HUD's Office of General Counsel
<b>OIG</b>	HUD's Office of Inspector General
<b>OMB</b>	Office of Management and Budget
<b>PASS</b>	Plan to Achieve Self-Support
<b>PHA</b>	Public housing agency
<b>PIC</b>	PIH Information Center
<b>PIH</b>	(HUD Office of) Public and Indian Housing
<b>PS</b>	Payment standard
<b>QC</b>	Quality control
<b>REAC</b>	(HUD) Real Estate Assessment Center
<b>RFP</b>	Request for proposals
<b>RFTA</b>	Request for tenancy approval
<b>RIGI</b>	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
<b>SEMAP</b>	Section 8 Management Assessment Program
<b>SRO</b>	Single room occupancy
<b>SSA</b>	Social Security Administration
<b>SSI</b>	Supplemental security income
<b>SWICA</b>	State wage information collection agency



<b>TANF</b>	Temporary assistance for needy families
<b>TPV</b>	Tenant protection vouchers
<b>TR</b>	Tenant rent
<b>TTP</b>	Total tenant payment
<b>UA</b>	Utility allowance
<b>UFAS</b>	Uniform Federal Accessibility Standards
<b>UIV</b>	Upfront income verification
<b>URP</b>	Utility reimbursement payment
<b>VAWA</b>	Violence Against Women Reauthorization Act of 2013

## **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 their 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 within its jurisdiction to promote self-sufficiency among participating families, including the coordination of supportive services to these families (24 CFR 984.103).

**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 their representative, or the managing agent or their 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.)

***Small rural public housing agency (PHA).*** Section 38 defines the term “small public housing agency” as a public housing agency “for which the sum of the number of public housing dwelling units administered by the agency and the number of vouchers under section 8(o) administered by the agency is 550 or fewer” and “that predominantly operates in a rural area, as described in section 1026.35(b)(2)(iv)(A) of title 12, Code of Federal Regulations.” After consideration of the public comments discussed above, HUD is interpreting “predominantly operates in a rural area” to mean a small PHA that:

- (1) Has a primary administrative building with a physical address in a rural area as described in 12 CFR 1026.35(b)(2)(iv)(A); or
- (2) more than 50 percent of its combined public housing units and voucher units under section 8(o) are in rural areas as described in 12 CFR 1026.35(b)(2)(iv)(A). HUD also clarifies that voucher units under section 8(o) include those in the tenant-based Housing Choice Voucher (HCV) program and the Project-Based Voucher (PBV) program.

***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 (24 CFR 984.103), *welfare assistance* includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker.

