Housing Authority of the City and County of San Francisco

HOUSING CHOICE VOUCHER ADMINISTRATIVE PLAN

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CHAPTER 1: OVERVIEW OF THE PROGRAM AND PLAN

The Housing Authority of the City and County of San Francisco (hereinafter, "the Authority") administers the Housing Choice Voucher (HCV) program under contract with the U.S. Department of Housing and Urban Development (HUD). The Authority is not a federal department or agency or a vital records agency. The Authority is a public housing agency (PHA), which is a governmental or public body, created and authorized under state law to develop housing and operate housing programs and provide housing assistance to low-income families within the City and County of San Francisco.

The Authority enters into an Annual Contributions Contract (ACC) with HUD and is responsible for administering the program in accordance with federal laws, regulations and HUD guidance. The Authority also establishes local policies and procedures to clarify federal requirements and to ensure consistency in program operation.

This chapter provides an overview of:

Part I: The Housing Authority and its Structure

Part II: The HCV Program

Part III: The HCV Administrative Plan

PART I: THE HOUSING AUTHORITY

1-I.A. Organization and Structure

The Authority is a public entity established by the Board of Supervisors in 1938 to provide federally subsidized housing and housing assistance to low-income families within the City and County of San Francisco.

The officials of the Authority are known as commissioners, or collectively as the Board of Commissioners (the Board). The Board establishes policies, ensures Authority accountability, and oversees the agency's long-term viability. Formal actions of the Authority are taken through written resolutions, adopted by the Board and entered into the official records of the Authority.

The principal staff member of the Authority is the Executive Director (ED), hired and appointed by the Board. The ED is directly responsible for implementing Board approved policies and is delegated the responsibility of managing the day-to-day operations of the Authority, including staffing, program administration, budgeting/financial planning and ensuring compliance with federal and state laws and directives for the programs managed as well as Authority policies.

In 2019, the Authority was mandated by HUD to contract out the administration of its HCV program to third-party contractors. Accordingly, third-party administration of the program is solicited pursuant to the federal procurement standards found at 2 CFR 200.317-200.327. Contractor selection and contract renewal are subject to Board approval and re-procurement of third-party administrator(s) occurs on a 5-year cycle. Administrative functions of the HCV program include but are not limited to: eligibility processing, voucher issuance, inspections, hearings, waitlist management, and correspondence with program applicants and participants. The Authority monitors contract performance to ensure program requirements are administered in accordance with federal, state, and applicable local laws, Authority policy and this Administrative Plan.

1-I.B. Mission and Guiding Principles

The mission of the Authority is to advance social equity and grow thriving communities by providing quality, safe, affordable housing and resources for residents.

In administering the HCV Program, the Authority is guided by the following principles:

- Promote housing stability and prevent avoidable displacement
- Expand access to housing across a range of neighborhoods
- Ensure that assisted housing is safe and of adequate quality
- Foster strong partnerships with landlords
- Support participant self-sufficiency and access to resources
- Administer the program in a fair, consistent, and transparent manner

The Authority complies with all applicable federal, state, and local fair housing and civil rights laws.

1-I.C. Programs Administered by the Authority

The Authority administers the following HUD-funded programs, which are administered in accordance with the policies outlined within this Administrative Plan:

- The Housing Choice Voucher (HCV) Program (tenant-based assistance)
- Project-Based Voucher (PBV) Program
- Rental Assistance Demonstration (RAD) Program
- Special Programs, including:
  - Foster Youth Initiative (FYI)
  - Veterans Affairs Supportive Housing (VASH)
  - Mainstream Voucher Program (MVP)
  - Family Unification Program (FUP)
- The Emergency Housing Voucher (EHV) Program

1-I.D. The Authority's Commitment to Ethics and Service

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

- Administer applicable federal and state laws and regulations to achieve high ratings in performance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide housing that is safe, habitable, functionally adequate, operable, and free of health and safety hazards—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 equal opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program that maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the Authority's mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performance agency through continuous improvement

of the Authority's support systems and a high level of commitment to our employees and their development.

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

The Housing and Community Development (HCD) Act of 1974 created a new federally-assisted housing program – the Section 8 Existing program (also known as the Section 8 Certificate program). The HCD Act represented a significant shift in federal housing strategy from locally owned public housing to privately owned rental housing. Under the Certificate program, federal housing assistance payments were made directly to private owners of rental housing, where this housing was made available to lower-income families. Eligible families were able to select housing in the private rental market. Assuming that the housing met certain basic physical standards of quality ("housing quality standards") and was within certain HUD-established rent limitations ("fair market rents"), the family would be able to receive rental assistance in the housing unit. Family contribution to rent was set at 30 percent of the family's adjusted income, with the remainder of the rent paid by the program.

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

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

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

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

In 1998, the Quality Housing and Work Responsibility Act (QHWRA) – also known as the Public Housing Reform Act – was signed into law. QHWRA eliminated all statutory

differences between the Certificate and Voucher tenant-based programs and required that the two programs be merged into a single tenant-based assistance program, now known as the Housing Choice Voucher (HCV) program. The HCV program was modeled closely on the pre-merger Voucher program. However, unlike the pre-merger Voucher program, the HCV program requires an assisted family to pay at least 30 percent of adjusted income for rent.

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

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 assets 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 HCV program provides rental assistance to eligible families. The rules and regulations of the HCV program are determined by HUD. The Authority is afforded choices in the operation of the program which are included in this Administrative Plan, a document approved by the Authority's Board of Commissioners.

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

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

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

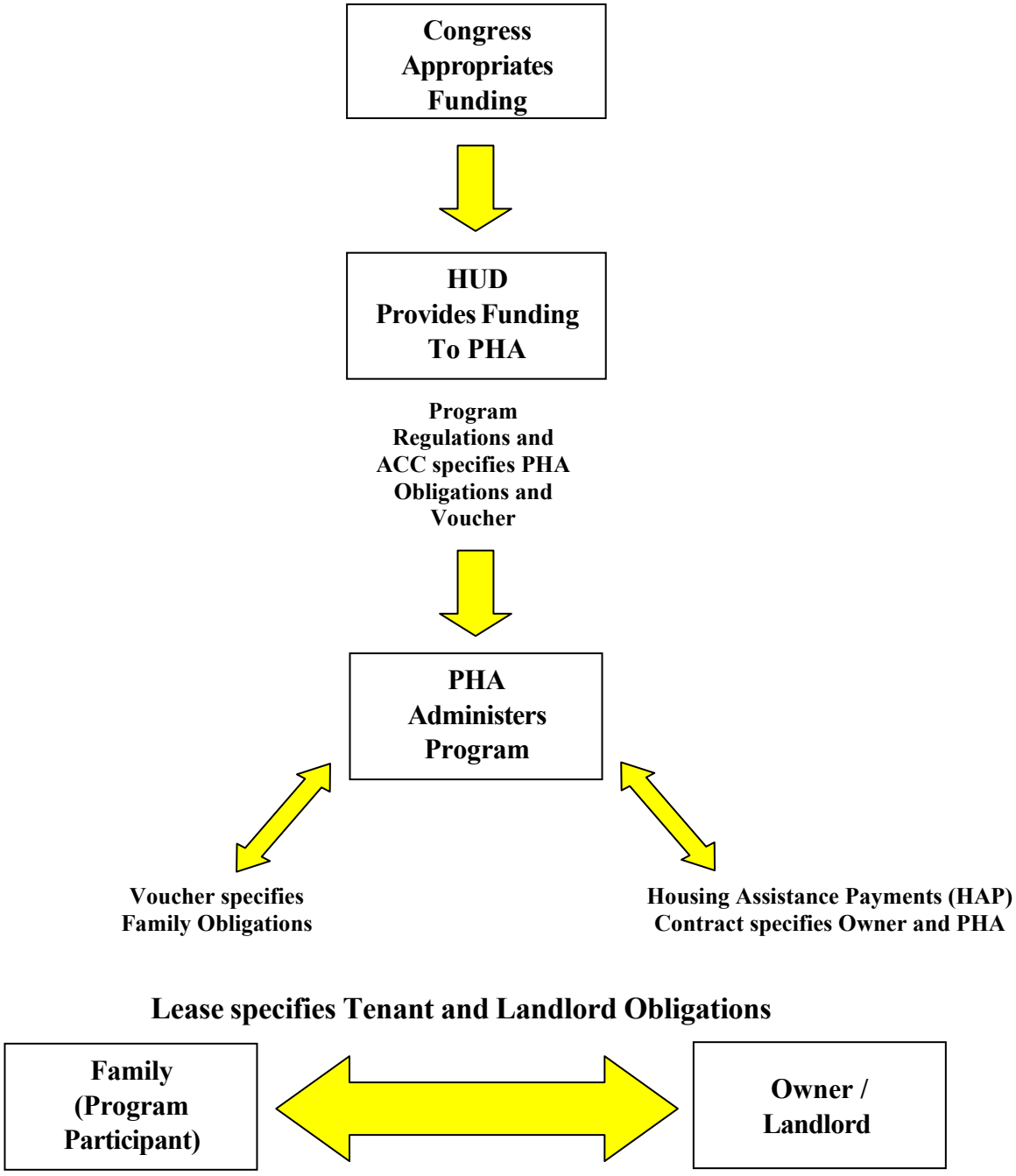
1-II.C. The HCV Partnerships

To administer the HCV program, the PHA enters into a contractual relationship with HUD (Consolidated Annual Contributions Contract). 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; and
- Monitor PHA compliance with HCV program requirements and PHA performance in program administration.

What Does the Authority Do?

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

- Establish local policies to administer the program.
- Review applications from interested applicants to determine whether they are eligible for the program.
- Maintain a waiting list and select families for admission.
- Issue vouchers to eligible families and provide information on how to lease a unit.
- Conduct outreach to owners, with special attention to owners outside areas of poverty or minority concentration.
- Approve the rental unit (including assuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy.
- Make housing assistance payments to the owner in a timely manner.
- Recertify families for continued eligibility under the program.
- Ensure that owners and families comply with their contractual obligations.
- Provide families and owners with prompt, professional service; and
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the Authority's administrative plan, and other applicable federal, state, and local laws.

What Does the Owner Do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine suitability as renters.
- The Authority can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.

- The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others;
- Comply with the terms of the Housing Assistance Payments contract executed with the Authority;
- Comply with all applicable fair housing laws and do not discriminate against anyone;
- 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; and
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

What Does the Family Do?

The family has the following responsibilities:

- Provide the Authority with complete and accurate information as determined by the Authority to be necessary for administration of the program.
- Make their best and most timely efforts to locate qualified and suitable housing.
- Attend all appointments scheduled by the Authority.
- Allow the Authority 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 Authority 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 Authority of any changes in family composition; and
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

1-II.D. Applicable Regulations

The HCV program is governed by federal regulations and guidance, including but not limited to:

- 24 CFR Part 5: General HUD Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint Poisoning Prevention
- 24 CFR Part 100: Discriminatory Conduct under the Fair Housing Act
- 24 CFR Part 982: Section 8 Tenant-Based Assistance
- 24 CFR Part 983: Project-Based Voucher (PBV) Programs
- 24 C.F.R. Part 985: The Section 8 Management Assessment Program (SEMAP)

PART III: THE HCV ADMINISTRATIVE PLAN

1-III.A. Purpose of the Plan

This Administrative Plan (the Plan) establishes the Authority's local policies for operation and administration the HCV program in accordance with federal laws and regulations, HUD requirements, and local goals and objectives contained in the Authority's Agency Plan. The Plan is a supporting document to the Authority's Agency Plan and is available for public review as required by 24 CFR Part 903.

All issues related to the HCV program not addressed in this document are governed by federal regulations, HUD handbooks and guidebooks, PIH Notices, and other applicable state and local laws. The policies in this Plan have been designed to ensure compliance with all HUD regulations for program funding.

The Authority 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 Authority staff shall be in compliance with the Authority's personnel policy and HUD regulations as well as all federal, state and local fair housing laws and regulations. In areas where federal regulations allow discretion, the Authority adopts policies to ensure consistent decision-making and effective program administration.

1-III.B. Contents of the Plan [24 C.F.R. § 982.54]

The HUD regulations at 24 C.F.R. § 982.54 require the PHA administrative plan to cover PHA policies on the following 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 Authority decides to allow extensions or suspensions of the voucher term, this administrative plan must describe how the Authority determines whether to grant extensions or suspensions, and how the Authority 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 C.F.R. § 982.553, or

other factors in accordance with §§ 982.552, 982.554, and 982.555; and policies concerning residency by foster children, foster adults, and live-in aides (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 redeterminations of family income and composition (Chapter 11);
- Restrictions, if any, on the number of moves by a participant family (Chapter 10);
- Approval by the Board of Commissioners or other authorized officials to charge the administrative fee reserve (Chapter 16);
- Procedural guidelines and performance standards for conducting required NSPIRE inspections (Chapter 8);

- PHA policies on withholding HAP for units that do not meet NSPIRE;
- PHA policies on assisting families with relocating and finding a new unit;
    - PHA screening of applicants for family behavior or suitability for tenancy (Chapter 3);
    - Policies concerning the operation of the project-based voucher (PBV) program (Chapter 17); and
- In the event of insufficient funding, taking into account any cost-savings measures taken by

the PHA, a description of the factors the PHA will consider when determining which HAP contracts to terminate first (e.g., prioritization of PBV HAP contracts over tenant-based HAP contracts or prioritization of contracts that serve vulnerable families or individuals).

Mandatory vs. Discretionary Policy

HUD distinguishes between:

- Mandatory policies: those required by law or regulation and are driven by legislation, implementing regulations, current HUD handbooks and PIH notices, and legal opinions; and
- Optional, non-binding guidance: where the Authority has flexibility to make policies based on local objectives aligned with HUD guidance including guidebooks, notices that have expired and recommendations from individual HUD staff.

The Authority adopts local policies in areas of discretion that are consistent with mandatory policies and other non-binding HUD guidance. The PHA's administrative plan is the foundation of those policies and procedures. HUD's directions require PHAs to make policy choices that provide sufficient guidance to staff and ensure consistency to program applicants and participants.

1-III.C. Plan Updates and Revisions

The Authority will revise this Plan as needed to reflect regulatory changes, operational improvements, and program needs. The Plan will be reviewed at least annually and updated as necessary to ensure compliance and operational consistency. All substantive revisions, as defined in the Agency Plan, will be made available for public comment and submitted for approval by the Board of Commissioners.

CHAPTER 2: FAIR HOUSING AND EQUAL OPPORTUNITY

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 Authority policies related to the nondiscriminatory application of this Plan in the administration of the HCV Program in four parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the Authority's general responsibility to administer the program in a nondiscriminatory manner.

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 (HUD) 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 Authority to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP).

Part IV: Policies Related to the Violence against Women Act (VAWA). This part details the Authority's process for ensuring equal access to the program for applicants and participants facing barriers as a result of domestic violence, dating violence, sexual assault, and stalking.

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, marital status and for victims of domestic violence, dating violence, sexual assault, or stalking. 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
- Executive Order (E.O.) 11063, as amended by E.O. 12892
- The Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended
- The Affirmatively Furthering Fair Housing (AFFH) obligation under the Fair Housing Act
- The Age Discrimination Act of 1975
- HUD's Equal Access Rule
- Section 504 of the Rehabilitation Act of 1973
- Titles II and III of the Americans with Disabilities Act of 1990
- Violence Against Women Act of 1994, as amended (VAWA)
- HUD's generally applicable nondiscrimination regulations at 24 CFR 5.105(a)
- California Fair Employment and Housing Act (FEHA)
- California Disabled Persons Act (CDPA)
- Unruh Civil Rights Act

Authority Policy

When more than one civil rights law applies to a situation, the Authority will read and apply the laws together. If one law provides greater protection or accessibility, the Authority will comply with the provision that provides the greatest protection or affords the greatest fair housing rights.

2-I.B. Fair Housing and Equal Access

The Authority's housing programs shall not exclude from participation, deny the benefits of, or otherwise discriminate against any applicant or participant because of ancestry, source of income, race, color, sex, religion, national or ethnic origin, familial status, or disability (called

"protected classes"). Additionally, applicants and participants shall be provided with equal access to housing regardless of marital status, gender identity or sexual orientation.

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 Authority will not discriminate on the basis of an individual's status as a survivor of domestic violence, dating violence, sexual assault or stalking.

Authority Policy

In addition to the protected classes above, California Fair Employment and Housing Act (FEHA) offers legal protection based on:

- **Sexual orientation:** The LGBT community is protected from housing discrimination in California. [See also 77 Fed. Reg. 5662 (Feb. 3, 2012) (HUD final rule).]
- **Gender identity and gender expression:** California's Gender Nondiscrimination Act, enacted in 2012, protects transgender and gender non-conforming people from housing and employment discrimination. [See also 77 Fed. Reg. 5662.]
- **Marital status:** Whether you are single, married or widowed, you are protected under FEHA. [See also 77 Fed. Reg. 5662.]
- **Medical condition:** Having any medical condition cannot disqualify you from access to housing.
- **Ancestry:** Your family's ancestral roots cannot be considered in the housing process.
- **Source of income:** Judgement and discrimination about where you are employed and how you make your money cannot factor into a landlord's decision to lease you a property.
- **Age:** People over the age of 40 are protected.
- **Genetic information:** A landlord cannot discriminate based on information about genetic tests and the genetic tests of an individual's family members, as well as information about the manifestation of a disease or disorder in an individual's family members (also known as family medical history).
- **Arbitrary discrimination:** You cannot be discriminated against for any other arbitrary reason.

The Authority will treat all applicants and resident families equally in the selection of households and in the provision of services. The Authority will provide the same level and quality of service and will not:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the

Housing Choice Voucher program;

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

2-I.C. Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the PHA or an owner, the family should advise the PHA. HUD requires the PHA to make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action.

Authority Policy

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

Within thirty (30) calendar days of receiving the complaint, the Authority will investigate and attempt to remedy discrimination complaints made against the Authority. The Authority will also advise the family of their right to file a fair housing complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The fair

housing poster, posted in conspicuous and accessible locations in the Authority lobby, will refer to how to file a complaint with FHEO. The link to the HUD discrimination complaint website will also be included in all Authority briefing packets.

The Authority 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.

Authority Policy

The Authority will ask all applicants and participants if they require any type of accommodation, in writing, on the intake application, reexamination documents, and notices of adverse action by the Authority, by including a statement similar to:

- "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."
- The Authority will display posters and other housing information and signage in locations throughout the Authority'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 a change 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 accommodation 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.
- Allowing a PHA approved live-in aide to reside in the unit if that person is determined to be essential to the care of a person with disabilities, is not obligated for the support of the person with disabilities and would not otherwise live in the unit.
- Providing large print forms.

2-II.C. Requests for 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.

Authority Policy

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

All reasonable accommodation requests for exception payment standards above 120% of fair market rent must be submitted to HUD for approval if there is a disability-related need for the request and granting the request would not impose an undue financial and administrative burden.

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 reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

Before providing 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 (May 17, 2004).]

If a family indicates that reasonable 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 (May 17, 2004).]

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].

Authority Policy

Disability is defined as any physical or mental impairment that limits one or more of their major life activities.

The Authority requires third-party verification as part of the Reasonable Accommodation process for accommodation of disabilities that are not obvious or are otherwise unknown to the Authority. Third-party verification must be provided within fifteen (15) calendar days of the request for accommodation. If the disability is "obvious" or readily apparent, then third-party verification is not required.

Third-party verification can be provided via U.S. Postal Service, fax, e-mail, or a telephone call initiated by the Authority.

For continued consideration, the family may be required to submit a new Reasonable Accommodation Request if the information is not in the tenant file (or as otherwise needed to document compliance with HUD verification requirements) and will be evaluated in accordance with the policies and regulations in effect at the time of the request.

2-II.E. Approval/Denial of a Requested Accommodation

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act (May 17, 2004), Notice PIH 2010-26]

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

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

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

Authority Policy

After a request for reasonable accommodation is presented, the Authority will respond, in writing, within thirty (30) calendar days from receipt of the request.

If the request for accommodation shows:

- No causal relationship, or nexus, between the disability and the requested accommodation;
- Would impose an undue financial and/or administrative burden; or
- Fundamentally alters the nature of the Authority's operations then, the request will be denied.

Project Based Voucher units are units wherein the subsidy is linked directly to the unit. This subsidy is not mobile or transferable. As a result, the Authority will not move households in the PBV program except:

- Through the Emergency Referral Program (see Chapter 18);

- VAWA Emergency Transfer (see Section 2-IV);
- Reasonable Accommodation (see Chapter 17).

The Authority will not review Reasonable Accommodations requests for decisions outside of the City and County of San Francisco. In circumstances where the Authority does not have jurisdiction, the participant will be referred back to their landlord/property manager.

The Authority may discuss with the family whether alternative accommodations could address the families' disability-related needs.

If the Authority believes that there is no reasonable alternative to the reasonable accommodation request, the Authority will deny the request and notify the family, in writing, of its determination. The notice will inform the family of the right to appeal the Authority's decision through the hearing process (see Chapter 16).

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.

Authority 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 in accordance with the LEP Plan (see Appendix A).

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

PHA 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.

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

2-II.H. Denial or Termination of Assistance

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

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

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

When reviewing reasonable accommodation requests, the PHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the PHA's decision to deny or terminate assistance. If 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. The Authority's Limited English Proficiency Plan

1.0 Date of Implementation, Approval Authority, Policy Number
2.0 Purpose of the Policy and Plan Statement
3.0 Detailed Policy Statement
4.0 Applicability
5.0 Implementation Procedures
6.0 Interested Interpreters

1.0 Date of Implementation; Approval Authority; Policy Number

Policy Number 3: Approved July 14, 2025; Effective October 1, 2025

Policy Number 2: Approved October 28, 2016; Effective January 1, 2017

Policy Number 1: Effective May 24, 2010

2.0 Purpose of the Policy & Plan Statement

The Housing Authority of the City and County of San Francisco (Authority) has adopted this plan to provide meaningful access to its programs and activities by persons with Limited English Proficiency (LEP). It is the official policy of the Housing Authority of the City and County of San Francisco to comply with the letter and spirit of Title VI of the Civil Rights Act to provide access to the Authority's programs by persons who are Limited English Proficient, using whatever means necessary and reasonable. In accordance with Federal guidelines, the Authority will make reasonable efforts to provide or arrange for free language assistance for its LEP clients, including applicants, recipients and/or persons eligible for public housing, Section 8/Housing Choice Vouchers, homeownership and other Authority programs.

3.0 Detailed Policy Statement

3.1. Meaningful Access: Four Factor Analysis

Meaningful access is free language assistance in accordance with Federal guidelines. No less than every five (5) years, the Authority will assess and update the following four- factor analysis, including but not limited to:

1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the Authority;
2) The frequency persons using a particular language come into contact with the Authority;
3) The nature and importance of the Authority program, activity or service to the person's life;
4) The Authority's resources and the cost of providing meaningful access. Reasonable steps may cease to be reasonable where the costs imposed substantially exceed the benefits.

3.1.1. Factor One

The Authority's language preference data compiled by reports generated from the Authority's ELITE software client file computer system produced the following statistics on clients we currently serve:

Language	Total	Percentage
Chinese	10,911	22%
Spanish	2,256	5%

Vital document translation will be required for all languages representing five (5) percent of the Authority's clientele.

3.1.2. Factor Two

The frequency with which LEP persons using a particular language encounters the Authority.

This determination will be made by analyzing the data in our ELITE software system to project the anticipated number of contact points a client may have with the Authority. The Authority will also retain copies of sign-in sheets for reference and analysis as well on an as needed basis.

3.1.3. Factor Three

The nature and importance of the Authority program, activity or service to the person's life.

The Authority adheres to the philosophy that housing is essential and extremely important. Thus, when a staff member engages a client in a discussion involving the client's rights to benefits, programs or services offered by the Authority, the staff member must determine whether failure to provide language assistance would result in a substantial delay that would adversely affect the client's rights.

3.1.4. Factor Four

The Authority's resources and the cost of providing meaningful access.

The Authority will utilize a combination of procured vendors and the Authority's verified multilingual staff members as professional, competent translators and interpreters. The Authority will procure qualified vendors to provide written translations of vital documents, as well as oral interpretation for languages not spoken by Authority staff members.

Additionally, the Authority will establish partnerships with City departments/agencies and community organizations to provide volunteer interpreter services for our clients, as available. The Authority will allow clients to waive their right to professional and/or volunteer language services, so that clients may utilize

friends or family members (who are not minors) as oral interpreters.

3.2. Language Assistance

A person who does not speak English as their primary language and/or who has a limited ability to read, write, speak, or understand English may be a Limited English Proficient (LEP) person and is therefore entitled to language assistance with respect to Authority programs and activities.

Authority staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating in English. The staff will use the LEP Language Chart to identify the languages spoken/written by the applicants/participants. Staff will also use the Personal Declaration form at every admission and re-certification to update the translation/interpretation services needed for each household.

The Authority will assess client needs for language assistance based on requests for interpreters and/or translation, as well as the literacy skills of clients.

The Authority will distinguish between language assistance provided in the form of 1) written translations, and 2) oral interpretations.

3.2.1. Written Translations

The Authority will weigh the costs and benefits of translating documents for potential LEP groups, considering the expense of translating the documents, the barriers to meaningful translation or interpretation of technical housing information, the likelihood of frequent changes in documents, the existence of multiple dialects within a single language group, and other relevant factors. The Authority will undertake this examination when an eligible LEP group constitutes five percent of an eligible client group.

Based on the Four-Factor analysis, the Authority translates vital documents to Chinese (Traditional) and Spanish. Vital documents are listed in the LEP Plan Procedure.

A client may request oral interpretations of vital documents for languages outside of the five percent translation requirement. Any client may also request oral interpretations of documents not translated.

As opportunities arise, the Authority may work with other housing authorities to share the costs of translating common documents, which may include language groups, which currently do not reach the threshold level in the Authority's client population.

The Authority will require a client to certify that the client understands the document translated with the Translation Certification Document.

The Authority staff member will also explain to the client that any written translations of Authority or HUD forms are not the official/legal version of the form. Vital document translations are used for the sole purpose of helping the LEP client understand the contents of the document. When a staff member uses a vital document translation to help a client understand a document, the client will only sign documents and forms in the English version.

3.2.2. **Oral Interpretations**

The Authority will provide interpreters, including multi-lingual staff and procured vendors in accordance with this plan. Written translation and verbal interpretation services will be provided consistent with the four-factor analysis detailed above and in accordance with the "Vital Document(s) List".

In cases of Formal/Informal Hearings an Authority staff interpreter may not be a subordinate to the Authority staff member rendering a decision on the client's hearing.

The Authority will monitor LEP in accordance with the LEP Procedures.

After the Authority has offered free interpretation services, an LEP client may prefer to use an informal interpreter, such as a friend or family member (who is not a minor), and the informal interpreter may interpret. In these cases, the client and interpreter of choice will sign a waiver of free interpreter services.

4.0 Applicability

This policy applies to all regular management and staff of the Authority. Failure to comply with this policy can result in disciplinary action up to termination of employment. Authority staff will receive training on the LEP Policy every two (2) years and within six (6) months of hire.

5.0 Implementation Procedures

The implementation procedures for this Plan are attached herein.

PART IV: POLICIES RELATED TO THE VIOLENCE AGAINST WOMEN ACT (VAWA)

2-IV.A. Overview

All programs subject to this Administrative Plan *(see 1-I.C)* are administered in accordance with the Violence Against Women Act ("VAWA") 34 U.S.C. 12491 *et seq*. and its implementing regulations , as well as any program specific implementing regulations and HUD guidance. The Violence Against Women Reauthorization Act of 2022 (VAWA 2022; P.L. 117-103) reauthorized preexisting VAWA programs and created new programs and expansions of VAWA enforcement. The actions addressed under VAWA are domestic violence, dating violence, sexual assault, and stalking (collectively referred to herein as "VAWA violence/abuse"). The statute and implementing regulations refer to individuals as "victims of domestic violence, dating violence, sexual assault, and stalking", however, the VAWA policies described in this Administrative Plan will address individuals entitled to VAWA protections and remedies as "survivors of VAWA violence/abuse", "VAWA survivors", or "survivor(s)" as applicable. Section 2-IV of this Administrative Plan addresses the special housing protections and remedies for survivors of VAWA violence/abuse who are applying for, or are the beneficiaries of, federally assisted housing under the Authority's jurisdiction.

2-IV.B. Applicability

[24 CFR 5.2001]

Notwithstanding the title of the statute, VAWA protections are not limited to women, but apply to a survivor regardless of sex, gender identity, or sexual orientation. Consistent with the nondiscrimination and equal opportunity requirements at 24 CFR 5.105 (a), survivors of VAWA violence/abuse shall not be discriminated against on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age, and VAWA protections must be applied consistent with all non-discrimination and fair housing requirements.

The policies described herein are applicable to Authority staff, contractors and agents, as well as private owners and property managers (collectively and individually referred to herein as "landlords"), and other housing providers accepting federal funds from the Authority to house individuals under the programs subject to this Administrative Plan.

2-IV.C. Definitions

[34 U.S.C.12291; 24 CFR 5.2003; Notice PIH-2017-08]

Actual and imminent threat refers to a physical danger that is: (1) real, (2) would occur within an immediate time frame, and (3) 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 other individual, tenant, or lawful occupant living in the household of that individual.

Bifurcate means, with respect to a public housing or Section 8 lease, 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.

Covered housing providers refer to the individual or entity that has responsibility for the administration and/or oversight of VAWA protections and include PHAs, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities. For any of the covered housing programs, it is possible that there may be more than one covered housing provider; that is, depending upon the VAWA duty or responsibility to be performed by a covered housing provider, the covered housing provider may not always be the same individual or entity.

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 VAWA survivor; and

(2) Where the existence of such a relationship shall be determined based on consideration of the following factors:

- The length of the relationship;
- The type of relationship; and
- The frequency of interaction between the persons involved in the relationship.

Domestic Violence includes felony or misdemeanor crimes of violence committed by:

(1) A current or former spouse or intimate partner of the VAWA survivor (The term "spouse" or "intimate partner of the VAWA survivor" includes a person who is or has been in a social relationship of a romantic or intimate nature with the VAWA survivor, 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);

(2) A person with whom the VAWA survivor shares a child in common;

(3) A person who is cohabitating with or has cohabitated with the VAWA survivor as a spouse or intimate partner;

(4) A person similarly situated to a spouse of the VAWA survivor under the domestic or family violence laws of the Authority's jurisdiction; or

(5) Any other person against an adult or youth VAWA survivor who is protected from that person's acts under the domestic or family violence laws of the Authority's jurisdiction.

Sexual Assault means any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent.

Stalking means engaging 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.

2-IV.D. Notification of Occupancy Rights Under VAWA

[24 CFR 5.2005; Notice PIH 2017- 08]

A covered housing provider must provide to each of its applicants and participants both the "Notice of Occupancy Rights Under the Violence Against Women Act" as prescribed and in accordance with directions provided by HUD that explains the VAWA protections under 24 CFR part 5 subpart L, including the right to confidentiality, and any limitations on those protections" (Form HUD- 5380; *see Exhibit 2-2*) and the "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking" (Form HUD-5382; *see Exhibit 2-3*), in a form approved by HUD, to be completed by the survivor to document an incident of VAWA violence/abuse, and that (1) states that the applicant or participant is a survivor of VAWA violence/abuse; (2) states that the incident of VAWA violence/abuse that is the ground for protection under 24 CFR 5 subpart L meets the applicable definition for such incident under 5.2003; and

(1) Includes the name of the individual who committed the VAWA violence/abuse, if the name is known and safe to provide.

This form certifies the truth and accuracy of the information provided. Providing false information to fraudulently claim protections under VAWA may result in denial of admission, termination of assistance, or eviction.

The notice and certification forms must be made available in multiple languages and must be provided to an applicant or participant not later than each of the following times:

1. At the time the applicant is denied assistance or admission under a covered housing program;
2. At the time the individual is provided assistance or admission under the covered housing program;
3. With any notification of eviction or notification of termination of assistance; and
4. During the annual recertification or lease renewal process, whichever is applicable.

A description of specific protections afforded to survivors of VAWA violence/abuse must be included in the lease addendum or tenancy addendum, as applicable.

Authority Policy

The Authority adopts the following policy to ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA.

Notification to Applicants

All applicants applying for federal assistance to the public housing, Housing Choice Voucher tenant-based voucher and project-based voucher programs as well as any other covered programs administered by the Authority will be provided Forms HUD-5380 and 5382:

- At the time the applicant requests an application for housing assistance
- Along with any notification sent to the applicant informing them their application for assistance has been denied. (*See section 3-III.F for notice of eligibility or denial*).
- Along with the briefing packet documents at the time the family is provided assistance or admission under the covered housing program. (*See Chapter 5*).

Notification to Participants

All participants receiving federal assistance to any covered program(s) administered by the Authority will be provided Forms HUD-5380 and 5382 and the VAWA Emergency Transfer Plan (Exhibit 2-4):

- Along with any notification of termination of assistance from the program *(See Chapter 12)*;
- Along with the annual recertification documentation *(See Chapter 11)*;
- Along with any notice of eviction *(See Chapter 12 and 13)*.

Notification to Owners and Managers

The Authority will provide owners and managers with information about their VAWA obligations as covered housing providers when they begin their participation as landlords in the HCV program and at least annually thereafter.

The VAWA information provided to owners will consist of the Notice to Owner/Manager (*see Exhibit 2-6*), a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, and Stalking and Alternate Documentation (Exhibit 2-3), Emergency transfer request form HUD-5383 (Exhibit 2-5), and a copy of the Authority's emergency transfer plan (Exhibit 2-4).

A description of the specific protections afforded to VAWA survivors must also be included in the tenancy addendum.

2-IV.E. Confidentiality

[24 CFR 5.2007(c)]

Communicating with survivors of VAWA violence/abuse

To ensure confidentiality and the safety of the survivor, the PHA and Owner must take precautions when communicating with applicants and participants who have requested VAWA protections to avoid inadvertent disclosure of confidential information to another individual or entity. Detailed messages containing confidential VAWA information, messages referencing VAWA violence/abuse, VAWA protections, the form number of HUD VAWA notices and certifications, etc. shall not be left on a survivor's voicemail system, or with other individuals (including other members of the household) nor shall such information be mailed to the survivor's address if the perpetrator may have access to the survivor's mail, is the co-head of the household, or the perpetrator is employed at the residence of the survivor.

Given the significant safety issues faced by survivors of VAWA violence/abuse, any information provided to the PHA or Owner regarding incidents of VAWA violence/abuse, including the fact that an individual *is* a survivor of VAWA violence/abuse, must be retained in strict confidence.

This means the PHA must not:

1. Enter VAWA information into any shared database.

2. Allow employees or others to access the information unless specifically authorized by the Authority for reasons that specifically call for these individuals to have access to the VAWA information under applicable Federal, State, or local law.

3. Provide information to any other entity or individual except to the extent that the disclosure is: (a) requested or consented to by the survivor of VAWA violence/abuse through a written time-limited release, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

Disclosure may be used in an eviction proceeding if it is related to whether the incident(s) in question qualifies as serious or repeated violation of the lease, good cause to terminate assistance or tenancy or criminal activity directly relating to VAWA violence/abuse.

Authority Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the Authority will inform the survivor before disclosure occurs so that safety risks can be identified and addressed.

2-IV.F. Protections for Survivors

[24 CFR 5.2005]

The Authority has an affirmative duty not to discriminate on the basis of or as a direct result of the fact that an applicant or participant is or has been a survivor of VAWA violence/abuse. Additionally, the Authority does not retaliate against any person for making a complaint,

testifying, assisting, or participating in any manner in a VAWA proceeding.

Applicants and participant families are eligible for VAWA protections if they are:

- Denied admission to a covered housing program
- Denied assistance under a covered housing program
- Terminated from participation in a covered housing program, or
- Evicted from housing under a covered housing program

If any of the above actions are taken against an applicant or participant family ***on the basis of*** or as a ***direct result of*** the fact that the applicant or participant is or has been a survivor of VAWA violence/abuse and if not for adverse factors directly resulting from such abuse or violence, the applicant or participant would qualify for admission, assistance, participation, or occupancy, such applicant or participant is eligible to request relief under VAWA.

Eligibility is not limited to the adult members of an applicant or participant family but may include youth under the age of 18 (referred to as "minors" in the Plan) for whom an applicant or participant family may need to exercise VAWA protections to protect the youth survivor.

Adverse Factors

Adverse factors for purposes of VAWA protections refers to any factor that can be used as a basis for denying or terminating assistance or evicting an individual. However, if denial or termination of assistance or eviction is required by federal statute, based on a particular adverse factor (i.e., federal requirement to deny or terminate assistance or evict an individual subject to a lifetime registration under a State sex offender registration program), the PHA must comply with that statute, even if the adverse factor is a direct result of VAWA violence/abuse.

Examples when Adverse Factors might be direct results of VAWA violence/abuse

On the surface, adverse factors may appear unrelated to VAWA violence/abuse and may present legitimate reasons for denial, termination, or eviction. However, the presence of an adverse factor may be due to an underlying experience of VAWA violence/abuse. An adverse factor may be present during much of an abusive relationship, or it may present itself only when a survivor is attempting to leave, or has left, the abusive relationship. The following examples are provided to give a sense of the many instances in which adverse factors might be the "direct result" of VAWA violence/abuse. This list is neither exhaustive nor definitive.

Poor credit history. Depending on the circumstances, poor credit history may be a direct result of VAWA violence/abuse when the violence/abuse results in, for example:

- Forcing a survivor to obtain credit, including credit cards for the perpetrator's use.
- Using a survivor's credit or debit card without permission or forcing them to do so.
- Selling survivors' personal identifying information to identity thieves.
- Running up debt on joint accounts.
- Obtaining loans/mortgages in a survivor's name.
- Preventing a survivor from obtaining and/or maintaining employment.
- Sabotaging work or employment opportunities by stalking or harassing a survivor at the workplace or causing them to lose their job by physically battering the survivor

prior to important meetings or interviews.
- Placing utilities or other bills in a survivor's name and then refusing to pay.
- Forcing a survivor to work without pay in a family business or forcing them to turn their earnings over to the abuser.
- Job loss or employment discrimination due to status as a survivor of VAWA violence/abuse.
- Job loss or lost wages due to missed work to attend court hearings, seek counseling or medical care, or deal with other consequences of the crime.
- Hospitalization and medical bills the survivor cannot pay or cannot pay along with other bills.

Poor rental history. Depending on the circumstances, poor rental history may be a direct result of VAWA violence/abuse when the violence/abuse results in, for example:

- Property damage;
- Noise complaints;
- Harassment;
- Trespassing;
- Threats;
- Criminal activity;
- Missed or late utility payments(s);
- Missed or late rental payment(s);
- Writing bad checks to the landlord; or
- Early lease termination and/or short lease terms.

Criminal record. Depending on the circumstances, a criminal record may be a direct result of VAWA violence/abuse when the violence/abuse results in, for example:

- Forcing a survivor to write bad checks, misuse credit, or file fraudulent tax returns;
- Property damage;
- Theft;
- Disorderly conduct;
- Threats;
- Trespassing;
- Noise complaints;
- Family disturbance/trouble;
- 911 abuse;
- Public drunkenness;
- Drug activity (drug use and the selling of drugs);
- Crimes related to sex work;
- "Failure to protect" a child from a batterer's violence and/or abuse;
- Crimes committed by a survivor to defend themselves or in defense of third parties from VAWA violence/abuse; or
- Human trafficking.

Failure to pay rent. Depending on the circumstances, temporary failure to pay rent may be a direct result of VAWA violence/abuse, when violence/abuse results in, for example:

- The survivor's injury or temporary incapacitation;
- The arrest of the only wage-earning member of the household;
- Preventing the survivor from obtaining and/or maintaining employment;
- Sabotaging work or employment opportunities by stalking or harassing the survivor at the workplace;
- Causing the survivor to lose their job by physically battering them prior to important meetings or interviews;
- Placing utilities or other bills in the survivor's name and then refusing to pay;
- Forcing the survivor to turn their earnings over to the abuser;
- Forcing the survivor to work without pay in a family business;
- Job loss or employment discrimination due to status as a survivor of VAWA violence/abuse;
- Losing wages or a job due to missing work to attend court hearings, seek counseling or medical care, or deal with other consequences of the crime can result in loss wages and unemployment; or
- Inability to pay bills after significant medical expenses resulting from the survivor's hospitalization.

Determining Whether an Adverse Factor is a "Direct Result" of the Applicant or Participant's Status as a Survivor of VAWA Violence/Abuse

A PHA or Owner is not independently required to identify whether adverse factors are the direct result of VAWA violence/abuse. The PHA or Landlord shall include the Notice of Occupancy Rights under VAWA and the Certification form whenever it issues a denial or termination of assistance (PHA actions) or notice of eviction (landlord action). It is thereafter the responsibility of the applicant or participant to initiate their rights under VAWA and inform the PHA or landlord that they are a survivor of VAWA violence/abuse and to provide enough information to show the connection between the VAWA violence/abuse and the adverse factor that led to the denial or termination of assistance or eviction.

Once the PHA or Landlord receives this information, they should consider the individual's statement and any other documentation that has been provided in support of the requested relief under VAWA. If the information provided is determined to be insufficient to make a determination, the Survivor may be asked to clarify information or to provide additional information, keeping in mind the need for confidentiality. The PHA or Landlord must make an objectively reasonable determination based on all circumstances and information provided, of whether the adverse action was a direct result of the applicant or participant's VAWA status. If it is determined that the adverse action *was* based on an adverse factor that is a direct result of VAWA violence/abuse, the decision to deny or terminate assistance or to pursue eviction will be reversed.

Prohibition against Construction of lease terms and terms of assistance

An incident of actual or threatened VAWA violence/abuse shall not be construed as:

- A serious or repeated violation of a lease by the victim or threatened victim of such incident; or
- Good cause for terminating the assistance, tenancy, or occupancy rights of the victim or threatened victim of such an incident.

Additionally, the Authority may not terminate assistance if the family, with or without prior notification to the Authority, moves out of a unit in violation of the lease, if such move occurs to protect the health or safety of a family member who is or has been the survivor of VAWA violence/abuse, or any family member who has been the survivor of a sexual assault that occurred on the premises during the 90 calendar day period preceding the family's move.

Prohibition of termination on the basis of Criminal Activity

VAWA provides that "criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a participant's household or any guest or other person under the participant's control shall not be a cause for termination of assistance, tenancy, or occupancy rights if the participant or an affiliated individual of the participant is the victim or threatened victim of that domestic violence, dating violence, sexual assault, or stalking."

Authority Policy

Survivor Documentation

When a participant family is facing termination of assistance because of the criminal actions of a member of the household of the participant or any guest or other person under the participant's control and the participant or affiliated individual of the participant claims that they are the survivor of such actions and that the actions are related to VAWA violence/abuse, the Authority will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state the consequences for failure to submit the documentation by the deadline.

2-IV.F. Limitations of VAWA Protections

Complying with Court Orders

The PHA or Owner must, when notified of a court order, comply with the order with respect to:

- Rights of access or control of property, including civil protection orders issued to protect a survivor of VAWA violence/abuse, or
- The distribution or possession of property among members of a household.

Notifying applicants and participants of denial of VAWA protection

If the PHA or Owner determines that an adverse action is not a direct result of VAWA violence/abuse, they must notify the applicant or participant that the denial, termination, or eviction was not on the basis or as a "direct result" of being a survivor of VAWA violence/abuse and the applicant or participant's request for relief under VAWA is denied. An applicant or participant that disagrees with the finding should use the program's applicable appeal procedures (see Chapter 16).

Notification of termination on the basis of Criminal Activity

Although VAWA provides assistance termination protection for survivors of VAWA violence/abuse, it does not provide protection for perpetrators. The Authority may "terminate assistance to any individual who is a participant or lawful occupant and who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the survivor of such violence who is also a participant or lawful occupant." This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member.

Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the Authority chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance [Pub.L. 109-271]. This means that the Authority 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].

Authority Policy

Terminating the Assistance of a Domestic Violence Perpetrator

The Authority will terminate assistance to a family member if the Authority 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 Authority will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the Authority by the survivor in accordance with VAWA documentation requirements, found in section 2-IV.F. of this Plan. The Authority will also consider the termination factors in section 12-II.D. Upon such consideration, the Authority may, on a case- by-case basis, choose not to terminate the assistance of the culpable family member.

If the Authority 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.

Termination due to Actual or Imminent Threat to Other Tenants or Employees

A participant may be terminate the assistance of any participant if the Authority "can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that participant is not evicted or terminated from assistance." However, situations where this might be relevant are extremely rare.

Eviction or termination of assistance of a survivor of VAWA violence/abuse for actual and imminent threat to others should be taken as a last resort. Action must first be taken to reduce or eliminate the threat, including, but not limited to:

- Transferring the survivor of VAWA violence/abuse to a different unit.
- Barring the perpetrator from the property.
- Contacting law enforcement to increase police presence or developing other site safety plans.
- Seeking other legal remedies to prevent the perpetrator from acting on a threat.

Authority Policy

In determining whether a participant who is a survivor of VAWA violence/abuse is an actual and imminent threat to other tenants or those employed at or providing service to a property, the Authority will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the survivor of VAWA violence/abuse;
- Whether the threat is a physical danger beyond a speculative threat;
- Whether the threat is likely to happen within a short period of time;
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location.

If the participant wishes to contest the Authority'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.

2-IV.G. Documenting the Occurrence of VAWA Violence/Abuse

[24 CFR 5.2007; Notice PIH- 2017-08]

Request for documentation

If an applicant or participant represents to the PHA that they are a survivor of VAWA violence/abuse entitled to protections or remedies under VAWA, the PHA may request that the individual making the claim provide documentation of the occurrence of VAWA violence/abuse. Any request for documentation must be made in writing, and the individual must be allowed at least fourteen (14) business days after receiving the request to submit the documentation. This time may be extended at the discretion of the PHA. Requests for an extension of the deadline must

be submitted to the PHA prior to the end of the original deadline to provide documentation.

Authority Policy

Any request for documentation of VAWA violence/abuse will be made 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 Authority may, in its discretion, extend the deadline for fifteen (15) additional calendar days. Any extensions granted by the Authority will be made in writing. When deciding whether to grant an extension, the Authority will consider factors such as cognitive limitations, disabilities, limited English proficiency, absence from the unit due to hospitalization or time in an emergency shelter, administrative delays in obtaining police or court reports, the danger of further violence, and the survivor's need to address health or safety issues.

No adverse actions (i.e., eviction, grievance hearing, informal review, or informal hearing) may be scheduled or taken against the individual requesting VAWA protection during the documentation deadline, plus any extensions granted.

Permissible documentation and submission requirements

The applicant or participant may satisfy a written request for documentation by providing any one of the three forms of documentation below. It is at the discretion of the applicant or participant which one of the following forms of documentation to submit:

1. A completed and signed HUD-approved Certification form HUD-5382 (*See Exhibit 2-3*).
2. A record of a federal, state, tribal, territorial, or local law enforcement agency, court, or administrative agency.
3. A document from a professional (i.e., an employee, agent, volunteer of a victim service provider, an attorney, or a medical or mental health professional) from whom the survivor of VAWA violence/abuse has sought assistance relating to the VAWA violence/abuse or the effects of the abuse. The document must be signed by the professional and the survivor and must state under penalty of perjury that the professional believes in the occurrence of the incident of VAWA violence/abuse and that the incident meets the applicable definition if VAWA violence/abuse as stated in the regulations.

The PHA or owner may not require third-party documentation (options 2 and 3 above) in addition to certification (option 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation.

Conflicting Documentation

In cases where the PHA receives conflicting certification documentation 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, each petitioner for VAWA protections will receive written requests to submit acceptable third party documentation, as described above, within 30 calendar days of the date of the request for third party documentation. The PHA must honor any court orders to protect the victim or to address the distribution of property.

Authority Policy

If presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, the Authority will attempt to determine which is the true victim by requiring each to provide third-party documentation and following HUD guidance on how such determinations should be made. The family will have sixty (60) calendar days from the date of request by the Authority to provide this documentation.

Failure to Provide Documentation

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of VAWA violence/abuse. If the individual fails to provide the requested documentation within the deadline (plus extension if applicable) the PHA may deny relief for protection under VAWA. A denial of VAWA protection may result in denied admission, denied assistance, termination from the program, or eviction.

An individual's failure to timely provide documentation of VAWA violence/abuse does not waive the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual from raising an incident of VAWA violence/abuse at eviction or termination proceedings.

Discretion to require no formal documentation

The PHA has the discretion to provide benefits to an applicant or participant solely on their statement or other corroborating evidence.

Authority Policy

If the Authority knows or has reason to know that an individual is a survivor of VAWA violence/abuse it may accept the individual's statement or other corroborating evidence of VAWA violence/abuse without the requirement of formal documentation. In this case, the Authority will document acceptance of the statement or evidence in the individual's confidential VAWA file.

2-IV.H. Remedies for Survivors of VAWA Violence/Abuse

Lease Bifurcation

The occurrence of VAWA violence/abuse may often lead to the break-up of the assisted family. Determining which family members retains the assistance in instances of family break ups are made at the discretion of the Authority; however, in instances of VAWA violence/abuse, a family break up would involve terminating the assistance of the perpetrator, while continuing the assistance of the survivor, ensuring the survivor understands their rights, documenting the abuse, maintaining the survivor's confidentiality and ensuring the safety of the survivor.

Authority Policy

The Authority follows the following steps when an applicant or participant family informs the Authority of VAWA violence/abuse:

Provide the applicant or participant with both Form HUD-5380, Notification of VAWA rights and Form HUD-5383, Certification form for the applicant or participant to self-certify the abuse.

A VAWA case worker will be assigned to complete processing information related to the VAWA violence/abuse leading to the breakup of the family. All VAWA related information will be gathered and stored by the VAWA case worker in a secure location separate from the applicant or participant's standard housing file. Access to this VAWA file is highly confidential and restricted.

The Authority will accept self-certification without the need for additional documentation in specific circumstances. If the Authority requires additional documentation, it will do so in writing specifying what documentation is required (additional documentation required for eviction of the perpetrator).

For applicant families, after reviewing documentation provided, the Authority will remove the perpetrator of VAWA violence/abuse from the waitlist application, allowing all other family members to remain and retain their position on the waitlist. The remaining members will need to be able to establish eligibility.

For participant families, the VAWA case worker will follow Authority procedures for lease bifurcation or emergency referral illustrated in this policy depending on which remedy the family is seeking.

The Authority will notify the participant VAWA survivor of the upcoming notification of denial of admission, or termination/eviction of the perpetrator. The VAWA case worker will coordinate with the participant in preparation of a safety plan that will ensure the VAWA survivor is safe while the Authority completes the process of termination of the perpetrator from the program.

The perpetrator will be given no more than 30 days' notice of termination and the Authority will expedite any grievance procedures requested by the perpetrator.

While the PHA has the authority to terminate assistance to the perpetrator, in the case of HCV programs, it is at the discretion of the apartment owner to allow the bifurcation of a lease [24 CFR 982.53(e)]. In the event that the apartment owner agrees to bifurcate the lease, the owner must immediately notify the PHA of the change in the lease and provide a copy of all such changes to the PHA [24 CFR 982.308(g); 24 CFR 983.256(e)].

Reasonable Time to Establish Eligibility for Assistance or Alternative Housing

If the family member that was evicted or to whom assistance was terminated was the eligible tenant, the remaining family members will continue to receive assistance for at least 90 calendar days from the date of bifurcation of the lease to either: establish eligibility for assistance within the same covered housing program under which the evicted or terminated participant was the recipient of assistance at the time of bifurcation of the lease, establish eligibility under another VAWA covered housing program, or find alternative housing.

If the remaining family member is ineligible due to immigration status and has not submitted documentation evidencing a satisfactory immigration status or a pending appeal of a verification determination of the family member's immigration status, assistance will be terminated after 30 days. The PHA will not stop assistance until 30 days after the owner bifurcated the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month [24 CFR 5.2009(a)(b); HUD Notice PIH-2017-08 (HA)].

If the remaining family member has a satisfactory immigration status, the family member will have 90 calendar days, or until the expiration of the lease if less than 90 calendar days, to establish eligibility or find alternative housing. In these instances, the PHA has the discretion to extend this period to an additional 60 calendar days.

Authority Policy

Under no circumstances is the Authority permitted to bifurcate the subsidy to create two subsidized households. Regardless of the landlord's determination with respect to the lease, the Authority is obligated to ensure the VAWA survivor retains the right to the subsidy. In cases of project-based vouchers, removal of a participant perpetrator from the voucher will necessitate their removal from the lease.

The Authority will provide survivors with 30 days to select a new head of household from those family members remaining after lease bifurcation to establish eligibility. Survivors unable to establish eligibility under the program will not be permitted to remain in the program at the expiration of the 30 days or any permitted extension(s). The terminated perpetrator will not be reinstated into the program if the survivor has to relinquish the unit or the voucher for failure to establish eligibility.

2-IV.I. VAWA - VASH

[PIH 2017-8]

In HUD-Veterans Affairs Supportive Housing (HUD-VASH), when a veteran's family member is receiving protection as a survivor of VAWA violence/abuse, and the veteran is the perpetrator of such violence, the survivor must continue to be assisted.

Upon termination of the perpetrator's HUD-VASH voucher due to the perpetrator's acts of VAWA violence/abuse, the survivor receiving protections under 24 CFR part 5, subpart L should be given a regular HCV if one is available, and the perpetrator's HUD-VASH voucher should be used to serve another eligible veteran family. If a regular HCV is not available, the perpetrator must be terminated from assistance, and the survivor will continue to utilize the HUD-VASH voucher. In the case of the survivor utilizing the HUD-VASH voucher upon termination of the perpetrator, this HUD-VASH voucher must be issued to another eligible veteran family upon the voucher's turnover.

2-IV.J. Emergency Referrals

Definitions

Internal emergency transfer refers to an emergency relocation of a tenant to another unit where the tenant would not be categorized as a new applicant and would not have to undergo an application process.

External emergency transfer refers to an emergency relocation of a tenant to another unit where the tenant would be categorized as a new applicant and must undergo an application process in order to reside in the new unit.

Safe Unit refers to a unit that the survivor of VAWA violence/abuse believes is safe.

Eligibility

To be eligible for an emergency referral, a participant must:

1. Be a survivor of VAWA violence/abuse as defined by the Violence Against Women Act;
2. Expressly request the referral;
3. Reasonably believe they are threatened with imminent harm from further violence if they remain in the current unit; or for survivors of sexual assault, the transfer may also be made if the sexual assault occurred on the premises within 90 calendar days prior to the request.

Authority Policy

The Authority has adopted HUD Form-5383, Emergency Transfer Request for Victims of Domestic Violence, Sexual Assault, or Stalking *(See Exhibit 2-6)* as the document of record for making such requests). However, the Authority will accept verbal requests in which case, staff will complete written documentation of the request.

Requesting a Transfer

There are two pathways to an emergency referral for participants in the Authority's Project- based voucher (PBV) and Rental Assistance Demonstration (RAD) programs. Households requiring an emergency transfer will be given a preference on a RAD PBV and/or PBV waiting list(s). To qualify for this preference, a family must have an approved (certified) Emergency Referral in accordance with Emergency Referral Procedure.

- **Internal transfer:** A tenant initiates the emergency referral process with their onsite property management. If the property manager determines that the participant household's situation meets the definitions of emergency, is supported by any required documentation as defined in 2-IV.H, and the participant household's emergency cannot be resolved by an internal transfer or temporary relocation, the property manager will complete an Emergency Referral Request Form for approval by the Mayor's Office of Housing and Community Development (MOHCD). The certified Emergency Referral is then routed to the Authority for placement.
- **External transfer:** Once the emergency is certified, the participant will select which site(s), within the Authority's PBV portfolio, they believe would be safe location(s). Placement/referrals are made based on the sites selected by the participant on the RAD/PBV Site Based Waitlist Selection Form in the order of certified MOHCD approval with consideration of the household's needs/all factors warranting the referral.

If the participant feels unsafe initiating the process through their property management office, or if they simply want to initiate external procedures, the tenant may initiate the request for emergency transfer directly with the Authority.

Unit Offers

The Authority will make a maximum of three (3) unit offers to a PBV / RAD / HOPE VI/ HOPE SF participant on the Emergency referral waiting list. The tenant may refuse one offer for any reason, but the remaining two (2) offers may only be refused for *"good cause"*, as defined in the Authority's HCV Administrative Plan at Section 18-II.C. Three refusals will result in the tenant being removed from the VAWA emergency waiting list.

VAWA Vouchers

PBV participants that seek issuance of a VAWA voucher may initiate emergency transfer requests directly through the Authority to move within the jurisdiction or port out. A participant eligible for an emergency transfer may choose to relocate to another PBV program site or through requesting issuance of a tenant-based voucher. This may be requested separately or simultaneously with the referral process described above. Voucher issuance is reviewed on a case-by-case basis and is subject to final approval by the Executive Director of the Authority or their duly authorized delegate. *(See 5-II.D)*.

The Authority will act as quickly as possible to assist a participant who qualifies for an emergency referral; however, the Authority cannot specify how long it will take from the time a transfer request is approved until the tenant can be placed in a new, safe unit or issued a voucher.

The Authority may be unable to transfer a tenant and their household to a particular unit if the

tenant and their household have not established or cannot establish eligibility for that unit.

HCV Tenant-based participants

HCV participants and PBV participants that seek issuance of a VAWA voucher may initiate external emergency transfer requests directly through the Authority to move within the jurisdiction or port out.

Authority Policy

Step 1: Request Initiation

- Tenant submits HUD-5383 (or equivalent form) and any certifying documentation directly to the Authority or if needed, submission may be made with assistance from victim service provider, Casa de las Madres.

Step 2: Certification

- The Authority certifies the request.

Step 3: Transfer Options

- Tenant may request:
  - Emergency move within the same jurisdiction; or
  - Portability transfer to another jurisdiction.

Step 4: Expedited Processing

- VAWA emergency transfers override standard restrictions (such as minimum lease term or good standing), unless prohibited by federal law.
- Receiving PHAs must accept portability transfers under VAWA, regardless of normal billing or absorption practices.

HCV participants and PBV or RAD participants that are given a voucher may also opt to port their voucher out of the jurisdiction if they believe the Authority's jurisdiction of San Francisco is not safe.

The Authority will act as quickly as possible to assist a participant who qualifies for an emergency referral; however, the Authority cannot specify how long it will take from the time a transfer request is approved until the tenant can be placed in a new, safe unit or issued a voucher.

The Authority may be unable to transfer a tenant and their household to a particular unit if the tenant and their household have not established or cannot establish eligibility for that unit.

2-IV.K. Notice to Owners and Managers

Landlords are encouraged to be aware of the protections of participants under VAWA and to assist participants and the Authority in keeping participants safe through efficient, thoughtful, and confidential emergency transfer plans.

Authority Policy

The Authority will provide the Notice to Owners and Managers, Emergency Transfer Plan, and Certification of VAWA violence/abuse to Owners and Managers within its subsidy portfolio at least annually to ensure all housing providers are aware of their obligations to participants under VAWA.

EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR Parts 8.3 and 100.201]

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

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

The phrase "physical or mental impairment" includes:

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

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

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

"Is regarded as having an impairment" is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as the 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, or
- 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 reasonable accommodation under federal civil rights and fair housing laws and regulations.

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

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

EXHIBIT 2-2: NOTICE OF OCCUPANCY RIGHTS UNDER VAWA

NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT
HUD-5380: Rights for Survivors

U.S. Department of Housing and Urban Development
OMB Approval No. 2577-0286
Expires 1/31/2028

HOUSING AUTHORITY OF THE CITY AND COUNTY OF SAN FRANCISCO

To all Applicants and Participants

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking (survivors of VAWA violence/abuse). VAWA protections are not only available to women but are available equally to all individuals regardless of sex, gender identity, or sexual orientation. The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees the Housing Authority of the City and County of San Francisco's (the Authority) compliance with VAWA. This Notice explains your rights under VAWA. A HUD approved certification form (form HUD-5382) is attached to this Notice. You can fill out the certification form to show that you are or have been a survivor of VAWA violence/abuse, and that you wish to exercise your rights under VAWA.

Protections for Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking

When should I receive this form? A covered housing provider must provide a copy of the Notice of Occupancy Rights Under the Violence Against Women Act (Form HUD-5380) and the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5382) when you are admitted as a tenant, when you receive an eviction or termination notice and prior to termination of tenancy, or when you are denied as an applicant. A covered housing provider may provide these forms at additional times.

What is the Violence Against Women Act ("VAWA")? This notice describes protections that may apply to you as an applicant or participant under a housing program covered by a federal law called the Violence Against Women Act ("VAWA"). VAWA provides housing protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections must be in leases and other program documents, as applicable. VAWA protections may be raised at any time. You do not need to know the type or name of the program you are participating in or applying to in order to seek VAWA protection.

What if I require this information in a language other than English? Language assistance and translation of this Notice and the attached certification is available upon request to applicants and participants in accordance with the Authority's LEP plan.

What do the words in this notice mean?

- *VAWA violence/abuse* means one or more incidents of domestic violence, dating violence, sexual assault, or stalking.
- *Victim* means any victim of *VAWA violence/abuse* (referred to as "survivor of VAWA violence/abuse" in the Authority's Administrative plan).
- *Affiliated person* means the participant's spouse, parent, sibling, or child; or any individual, participant, or lawful occupant living in the participant's household; or anyone for whom the participant acts as parent/guardian.
- *Covered housing program*[2] includes the following HUD programs:

[2] For information about non-HUD covered housing programs under VAWA, see Interagency Statement on the Violence Against

- Public Housing
- Tenant-based vouchers (TBV, also known as Housing Choice Vouchers or HCV) and Project-based Vouchers (PBV) Section 8 programs
- Section 8 Project-Based Rental Assistance (PBRA)
- Section 8 Moderate Rehabilitation Single Room Occupancy
- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for Persons with Disabilities
- Section 221(d)(3)/(d)(5) Multifamily Rental Housing
- Section 236 Multifamily Rental Housing
- Housing Opportunities for Persons with AIDS (HOPWA) program
- HOME Investment Partnerships (HOME) program
- The Housing Trust Fund
- Emergency Solutions Grants (ESG) program
- Continuum of Care program
- Rural Housing Stability Assistance program

° *Covered housing provider* means the individual or entity under a covered housing program that is responsible for providing or overseeing the VAWA protection in a specific situation. The covered housing provider may be a public housing agency, project sponsor, housing owner, mortgagor, housing manager, State or local government, public agency, or a nonprofit or for-profit organization as the lessor.

What if I am an applicant under a program covered by VAWA? You can't be denied housing, housing assistance, or homeless assistance covered by VAWA just because you (or a household member) are or were a victim or just because of problems you (or a household member) had as a direct result of being or having been a victim. For example, if you have a poor rental or credit history or a criminal record, and that history or record is the direct result of you being a victim of VAWA violence/abuse, that history or record cannot be used as a reason to deny you housing or homeless assistance covered by VAWA.

What if I am a participant under a program covered by VAWA? You cannot lose housing, housing assistance, or homeless assistance covered by VAWA or be evicted just because you (or a household member) are or were a victim of VAWA violence/abuse. You also cannot lose housing, housing assistance, or homeless assistance covered by VAWA or be evicted just because of problems that you (or a household member) have as a direct result of being or having been a victim. For example, if you are a victim of VAWA violence/abuse that directly results in repeated noise complaints and damage to the property, neither the noise complaints nor property damage can be used as a reason for evicting you from housing covered by VAWA. You also cannot be evicted or removed from housing, housing assistance, or homeless assistance covered by VAWA because of someone else's criminal actions that are directly related to VAWA violence/abuse against you**,** a household member, or another affiliated person.

How can participants request an emergency transfer? Victims of VAWA violence/abuse have the right to request an emergency transfer from their current unit to another unit for safety reasons related to the VAWA violence/abuse. An emergency transfer cannot be guaranteed, but you can request a VAWA emergency transfer when:

1. You (or a household member) are a victim of VAWA violence/abuse;

Women Act's Housing Provisions at https://www.hud.gov/sites/dfiles/PA/documents/InteragencyVAWAHousingStmnt092024.pdf.

2. You expressly request the emergency transfer; **AND**

3. **EITHER**
   a. you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the same dwelling unit; **OR**
   b. if you (or a household member) are a victim of sexual assault, either you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) were to stay in the unit, or the sexual assault occurred on the premises and you request an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

You can request an emergency transfer even if you are not lease compliant, for example if you owe rent. If you request an emergency transfer, your request, the information you provided to make the request, and your new unit's location must be kept strictly confidential by the covered housing provider. The covered housing provider is required to maintain a VAWA emergency transfer plan and make it available to you upon request. To request an emergency transfer or to read the covered housing provider's VAWA emergency transfer plan, you can alert your onsite property manager or the Authority directly.

The VAWA emergency transfer plan includes information about what the Authority does to make sure your address and other relevant information are not disclosed to your perpetrator.

Can the perpetrator be evicted or removed from my lease? Depending on your specific situation, your covered housing provider may be able to divide the lease to evict just the perpetrator. This is called "lease bifurcation."

What happens if the lease bifurcation ends up removing the perpetrator who was the only participant who qualified for the housing or assistance? In this situation, the covered housing provider must provide you and other remaining household members an opportunity to establish eligibility or to find other housing. If you cannot or don't want to establish eligibility, then the covered housing provider must give you a reasonable time to move or establish eligibility for another covered housing program. This amount of time varies, depending on the covered housing program involved. The table below shows the reasonable time provided under each covered housing program with HUD. Timeframes for covered housing programs operated by other agencies are determined by those agencies.

Covered Housing Program(s)	Reasonable Time for Remaining Household Members to Continue to Receive Assistance, Establish Eligibility, or Move.
HOME and Housing Trust Fund, Continuum of Care Program (except for permanent supportive housing), ESG program, Section 221(d)(3) Program, Section 221(d)(5) Program, Rural Housing Stability Assistance Program	Because these programs do not provide housing or assistance based on just one person's status or characteristics, the remaining tenant(s), or family member(s) in the CoC program, can keep receiving assistance or living in the assisted housing as applicable.
Permanent supportive housing funded by the Continuum of Care Program	The remaining household member(s) can receive rental assistance until expiration of the lease that is in effect when the qualifying member is evicted.

Housing Choice Voucher, Project-based Voucher, and Public Housing programs (for Special Purpose Vouchers (e.g., HUD-VASH, FUP, FYI, etc.), see also program specific guidance)	If the person removed was the only tenant who established eligible citizenship/immigration status, the remaining household member(s) must be given 30 calendar days from the date of the lease bifurcation to establish program eligibility or find alternative housing. For HUD-VASH, if the veteran is removed, the remaining family member(s) can keep receiving assistance or living in the assisted housing as applicable. If the veteran was the only tenant who established eligible citizenship/immigration status, the remaining household member(s) must be given 30 calendar days to establish program eligibility or find alternative housing.
Section 202/811 PRAC and SPRAC	The remaining household member(s) must be given 90 calendar days from the date of the lease bifurcation or until the lease expires, whichever is first, to establish program eligibility or find alternative housing.
Section 202/8	The remaining household member(s) must be given 90 calendar days from the date of the lease bifurcation or when the lease expires, whichever is first, to establish program eligibility or find alternative housing. If the person removed was the only tenant who established eligible citizenship/immigration status, the remaining household member(s) must be given 30 calendar days from the date of the lease bifurcation to establish program eligibility or find alternative housing.
Section 236 (including RAP); Project-based Section 8 and Mod Rehab/SRO	The remaining household member(s) must be given 30 calendar days from the date of the lease bifurcation to establish program eligibility or find alternative housing.
HOPWA	The remaining household member(s) must be given no less than 90 calendar days, and not more than one year, from the date of the lease bifurcation to establish program eligibility or find alternative housing. The date is set by the HOPWA Grantee or Project Sponsor.

Are there any reasons that I can be evicted or lose assistance? VAWA does not prevent you from being evicted or losing assistance for a lease violation, program violation, or violation of other requirements that are not due to the VAWA violence/abuse committed against you or an affiliated person. However, a covered housing provider cannot be stricter with you than with other participants, just because you or an affiliated person experienced VAWA violence/abuse. VAWA also will not prevent eviction, termination, or removal if other participants or housing staff are shown to be in immediate, physical danger that could lead to serious bodily harm or death if you are not evicted or removed from assistance. **But only if no other action can be taken to reduce or eliminate the threat** should a covered housing provider evict you or end your assistance, if the VAWA violence/abuse happens to you or an affiliated person. A covered housing provider must provide a copy of the Notice of Occupancy Rights Under the Violence Against Women Act (Form HUD-5380) and the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5382) when you receive an eviction or termination notice and prior to termination of tenancy.

What do I need to document that I am a victim of VAWA violence/abuse? If you ask for VAWA protection, the covered housing provider may request documentation showing that you (or a household member) are a victim. BUT the covered housing provider must make this request in writing and must give you at least fourteen (14) business days (weekends and federal holidays do not count) to respond, and you are free to choose any <u>one</u> of the following:

1. <u>A self-certification form (for example, Form-HUD 5382)</u>, which the covered housing provider must give you along with this notice. Either you can fill out the form or someone else can complete it for you;

2. A statement from a victim/survivor service provider, attorney, mental health professional or medical professional who has helped you address incidents of VAWA violence/abuse. The professional must state "under penalty of perjury" that they believe that the incidents of VAWA violence/abuse are real and covered by VAWA. Both you and the professional must sign the statement;
3. A police, administrative, or court record (such as a protective order) that shows you (or a household member) were a victim of VAWA violence/abuse; **OR**
4. If allowed by your covered housing provider, any other statement or evidence provided by you.

It is your choice which documentation to provide and the covered housing provider must accept any one of the above as documentation. The covered housing provider is prohibited from seeking additional documentation of victim status or requiring more than one of these types of documentation, unless the covered housing provider receives conflicting information about the VAWA violence/abuse.

If you do not provide one of these types of documentation by the deadline, the covered housing provider does not have to provide the VAWA protections you requested. If the documentation received by the covered housing provider contains conflicting information about the VAWA violence/abuse, the covered housing provider may require you to provide additional documentation from the list above, but the covered housing provider must give you another thirty (30) calendar days to do so.

Will my information be kept confidential? If you share information with a covered housing provider about why you need VAWA protection, the covered housing provider must keep the information you share strictly confidential. This information should be securely and separately kept from your other tenant files. No one who works for your covered housing provider will have access to this information, unless there is a reason that specifically calls for them to access this information, your covered housing provider explicitly authorizes their access for that reason, and that authorization is consistent with applicable law.

Your information **will not be disclosed** to anyone else or put in a database shared with anyone else, except in the following situations:

1. If you give the covered housing provider written permission to share the information for a limited time;
2. If the covered housing provider needs to use that information in an eviction proceeding or hearing; or
3. If other applicable law requires the covered housing provider to share the information.

How do other laws apply? VAWA does not limit the covered housing provider's duty to honor court orders about access to or control of the property, or civil protection orders issued to protect a victim of VAWA violence/abuse. Additionally, VAWA does not limit the covered housing provider's duty to comply with a court order with respect to the distribution or possession of property among household members during a family break up. The covered housing provider must follow all applicable fair housing and civil rights requirements.

Can I request reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodation. To request a reasonable accommodation, you may contact your onsite property management or contact the Authority directly at its main office located at 1815 Egbert Ave, San Francisco, CA 94124 for a reasonable accommodation form; you may also access the form online at the Authority's website: https://sfha.org/resources-forms?page=3. Your covered housing provider must also ensure effective communication with individuals with disabilities.

Have your protections under VAWA been denied? If you believe that the covered housing provider has violated these rights, you may seek help by contacting the local HUD FHEO Field Office at:

San Franciso Regional Office of FHEO
U.S. Department of Housing and Urban Development
One Sansome Street, Suite 1200
San Francisco, CA 94104
(415) 489-6524
(800) 347-3739

You can also find additional information on filing VAWA complaints at https://www.hud.gov/VAWA and https://www.hud.gov/program_offices/fair_housing_equal_opp/VAWA. To file a VAWA complaint, visit https://www.hud.gov/fairhousing/fileacomplaint.

Need further help?

- For additional information on VAWA and to find help in your area, visit https://www.hud.gov/vawa.
- To talk with a housing advocate, contact La Casa de Las Madres at 415-503-0500.
- For help regarding abusive relationships, you may call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or, for persons with hearing impairments, 1800-787-3224 (TTY).
    - You may also contact California Victims Resource Center 1-800-VICTIMS (842-8467) or
    - La Casa de Las Madres at 415-503-0500.
- For victim services for people with disabilities, go to https://victims.ca.gov if you have safe access to a computer or call 1-800-777-9229.
- Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.
- For help regarding sexual assault or stalking, you may contact La Casa de Las Madres at 415-503-0500.

Public reporting burden for this collection of information is estimated to range from 45 to 90 minutes per each covered housing provider's response, depending on the program. This includes time to print and distribute the form. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, D.C. 20410. This notice is required for covered housing programs under section 41411 of VAWA and 24 CFR 5.2003. Covered housing providers must give this notice to applicants and tenants to inform them of the VAWA protections as specified in section 41411(d)(2). This is a model notice, and no information is being collected. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 2-3: Form HUD-5382
CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

U.S. Department of Housing and Urban Development
OMB Approval No. 2577-0286
Exp. 1/31/2028

CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Confidentiality Note: Any personal information you share in this form will be maintained by your covered housing provider according to the confidentiality provisions below.

Purpose of Form: If you are a participant of or applicant for housing assisted under a covered housing program, or if you are applying for or receiving transitional housing or rental assistance under a covered housing program, and ask for protection under the Violence Against Women Act ("VAWA"), you may use this form to comply with a covered housing provider's request for written documentation of your status as a "victim". This form is accompanied by a "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

VAWA protects individuals and families regardless of a victim's age, sex, or marital status.

You are not expected **and cannot be asked or required** to claim, document, or prove victim status or VAWA violence/abuse other than as stated in the "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380.

This form is **one of your available options** for responding to a covered housing provider's written request for documentation of victim status or the incident(s) of VAWA violence/abuse. If you choose, you may submit one of the types of third-party documentation described in Form HUD-5380, in the section titled, "What do I need to document that I am a victim of VAWA violence/abuse?". Your covered housing provider must give you at least 14 business days (weekends and holidays do not count) to respond to their written request for this documentation.

Will my information be kept confidential? Whenever you ask for or about VAWA protections, your covered housing provider must keep any information you provide about the VAWA violence/abuse or the fact you (or a household member) are a victim, including the information on this form, strictly confidential. This information should be securely and separately kept from your other tenant files. This information can only be accessed by an employee/agent of your covered housing provider if (1) access is required for a specific reason, (2) your covered housing provider explicitly authorizes that person's access for that reason, **and** (3) the authorization complies with applicable law. This information will not be given to anyone else or put in a database shared with anyone else, unless your covered housing provider (1) gets your written permission to do so for a limited time, (2) is required to do so as part of an eviction or termination hearing, **or** (3) is required to do so by law.

In addition, your covered housing provider must keep your address strictly confidential to ensure that it is not disclosed to a person who committed or threatened to commit VAWA violence/abuse against you (or a household member).

What if I require this information in a language other than English? If you speak or read in a language other than English, the Authority will provide you with language assistance regarding your VAWA protections (for example, oral and/or written translation, in accordance with its LEP policy, upon request.

Can I request a reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying a specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. Your covered housing provider must also ensure effective communication with individuals with disabilities.

Need further help? For additional information on VAWA and to find help in your area, visit: https://www.hud.gov/vawa. To speak with a housing advocate, contact La Casa de Las Madres at 415-503-0500.

TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

1. **Name(s) of victim(s):** Click or tap here to enter text.
2. **Your name** (*if different from victim's*): Click or tap here to enter text.
3. **Name(s) of other member(s) of the household**: Click or tap here to enter text.
4. **Name of the perpetrator** *(if known and can be safely disclosed):* Click or tap here to enter text.
5. **What is the safest and most secure way to contact you? (You may choose more than one.)**

   If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

   ☐ Phone Phone Number: **Click or tap here to enter text.**

   Safe to receive a voicemail: ☐ Yes ☐ No

   ☐ Email E-mail Address: **Click or tap here to enter text.**

   Safe to receive an email: ☐ Yes ☐ No

   ☐ Mail Mailing Address: Click or tap here to enter text.

   Safe to receive mail from your housing provider: ☐ Yes ☐ No

   ☐ Other Please List: Click or tap here to enter text.

6. **Anything else your housing provider should know to safely communicate with you?** Click or tap here to enter text.

Applicable definitions of domestic violence, dating violence, sexual assault, or stalking:

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 lives with or has lived 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, 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.

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.

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.

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.

Certification of Applicant or Participant: By signing below, I am certifying that the information provided on this form is true and correct to the best of my knowledge and recollection, and that one or more members of my household is or has been a victim of domestic violence, dating violence, sexual assault, or stalking as described in the applicable definitions above.

Click or tap here to enter text.	Click or tap here to enter text.
Signature	Date

Public Reporting Burden for this collection of information is estimated to average 20 minutes per response. This includes the time for collecting, reviewing, and reporting. Comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. Housing providers in programs covered by VAWA may request certification that the applicant or tenant is a victim of VAWA violence/abuse. A Federal agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

EXHIBIT 2-4: EMERGENCY TRANSFER PLAN FOR SURVIVORS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

HOUSING AUTHORITY OF THE CITY AND COUNTY OF SAN FRANCISCO

VAWA EMERGENCY TRANSFER PLAN FOR SURVIVORS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

The Housing Authority of the City and County of San Francisco (herein called the "Authority") is concerned about the safety of its participants, and such concern extends to participants who are victims of domestic violence, dating violence, sexual assault, or stalking (herein called "survivors of VAWA violence/abuse"). In accordance with the Violence Against Women Act of 1994, as amended ("VAWA"), the Authority allows any participant who is or has experienced incident(s) of domestic violence, dating violence, sexual assault, or stalking (herein called "VAWA violence/abuse") to request an emergency transfer from their current assisted housing to another safe and available unit. VAWA protections are not limited to women. Survivors cannot be discriminated against on the basis of any protected characteristic, including race, color, national origin, religion, sex (including perceived or actual sexual orientation or gender identity), familial status, disability, or age.

This plan identifies participants who are eligible for a VAWA emergency transfer, the documentation needed to request a VAWA emergency transfer, confidentiality protections, how a VAWA emergency transfer may occur, and guidance regarding safety and security. The plan is based on Federal regulations at 24 Code of Federal Regulations (CFR) part 5, subpart L, related program regulations, and the model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD). HUD is the Federal agency that oversees that the Authority's Housing Choice Voucher (HCV) program is in compliance with VAWA.

Definitions

External emergency transfer refers to an emergency relocation of a tenant to another unit where the tenant would be categorized as a new applicant; that is, the tenant must undergo an application process in order to reside in the new unit. Participants must be aware that their VAWA status does not override building or unit eligibility requirements. Participants will not be accepted at sites where the participant does not satisfy building or unit restrictions (e.g. HOPWA, senior, TAY, etc.).

Internal emergency transfer refers to an emergency relocation of a tenant to another unit where the tenant would not be categorized as a new applicant; that is, the tenant may reside in the new unit without having to undergo an application process. Internal emergency transfers are initiated directly with the tenant's property manager ("landlord"). Under internal procedures, the tenant may address their need to move directly with the landlord who can assist with a transfer to another unit within the site or within the landlord's portfolio.

Safe Unit refers to a unit that the victim of VAWA violence/abuse believes is safe.

VAWA violence/abuse means an incident or incidents of domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in 24 CFR 5.2003 and "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking" (Form HUD-5382).

Eligibility for VAWA Emergency Transfers

A tenant may seek an emergency transfer to another unit if they or their household member is a survivor of VAWA violence/abuse, as outlined in the "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD- 5380. This emergency transfer plan provides further information on emergency transfers, and the Authority will provide a copy upon request. The Authority may ask for submission of a written request for an emergency transfer, such as form HUD-5383, to certify eligibility for the emergency transfer.

A Tenant is eligible for a VAWA emergency transfer if:

1. The tenant (or their household member) is a survivor of VAWA violence/abuse;
2. The tenant expressly requests the emergency transfer; **AND**
3. **EITHER**
    a. The tenant reasonably believes that there is a threat of imminent harm from further violence, including trauma, if they or (their household member) stays in their current dwelling unit; **OR**

    b. If the tenant (or their household member) is a survivor of sexual assault and or the sexual assault occurred on the premises and the tenant requested an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

The covered housing provider, in response to an emergency transfer request, should not evaluate whether the tenant is in good standing as part of the assessment or provision of an emergency transfer. Whether or not a tenant is in good standing does not impact their ability to request an emergency transfer under VAWA.

Emergency Transfer Policy

Requesting an Emergency Transfer

A tenant may request an emergency transfer either directly with their onsite property management (internal transfer) or directly with the Authority (external transfer), separately or simultaneously. Tenants must expressly request to exercise their rights under VAWA. The Authority has adopted HUD's Emergency Transfer Request Form 5383 as the official document of record for making a VAWA request, however, the Authority will accept verbal requests, with staff documenting the request in writing ensuring that the information from the request form is obtained.

Emergency Transfer Timing, Availability, and Assistance

The Authority cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The Authority will act as quickly as possible to process emergency transfer requests based on availability and funding. If an immediate transfer is not feasible:

- The Authority, in partnership with La Casa De Las Madres will work with the participant to identify interim solutions such as referrals to domestic violence shelters.
- The Authority will assist in portability paperwork or HAP contract amendments to facilitate rapid relocation when possible.

Emergency Transfer Procedures

The covered housing provider will assist eligible tenants in securing either external or internal transfers to a safe unit. Tenants are permitted to initiate a transfer under internal referral procedures or external procedures consecutively or simultaneously.

VAWA provisions do not supersede eligibility or other occupancy requirements that may apply under a covered housing

program. As a result, the covered housing provider may be unable to transfer a tenant to a particular unit if the tenant cannot establish eligibility for that unit.

Internal Emergency Moves

Transfers under internal moves include any relocation of a participant to another unit where the participant would not require re-screening for eligibility or categorization as a new applicant. Generally, a participant that seeks emergency transfer through their current housing provider will not need to be re-screened.

Option 1: Participants may seek a VAWA emergency transfer directly with the property management of their housing site based on the landlord's emergency transfer plan, subject to availability and safety of a unit within their current housing development. Property management and participant would sign a mutual release ending participant's tenancy at the current "unsafe unit" and provide the Authority with the new, "safe unit" information.

Option 2: If a participant reasonably believes a proposed transfer offered by the landlord under option one would not be safe, the participant may request a transfer to a different "safe unit" within the property manager's housing portfolio. The management will work directly with the participant in locating a vacancy within their portfolio. Once a vacant "safe unit" has been identified, management will sign a release ending the participant's tenancy at the current "unsafe unit" and provide the Authority with the new, "safe unit" information.

Option 3: If no safe and available units can be located based on the above options, the participant may submit a VAWA emergency referral request to the Authority to initiate external emergency referral procedures.
Participants may choose what order to initiate a move (i.e. internal then external; external then internal; or both simultaneously).

Emergency Transfers by program

A. ***PBV and Public Housing Tenants***

Emergency transfers under the PBV and public housing programs follow the emergency referral process as outlined in Chapter 18 of the HCV Administrative Plan.

Internal Transfer

Tenant initiates VAWA request directly with onsite property management. Management will collect any required documentation to certify eligibility for emergency referral and work with tenant to determine if tenant may feel safe in another unit onsite or within a unit at another site within the landlord's portfolio.

If tenant feels unsafe initiating a VAWA request with property management, tenant may initiate the request directly with the Authority who will collect any required documentation to certify eligibility for emergency referral.

All emergency referral requests and documentation for these program types must be certified by the Mayor's Office of Housing and Community Development (MOHCD).

External Transfer

If no safe unit is available onsite or within the landlord's portfolio, or if the tenant does not believe a transfer to any PBV site is safe, or if the tenant believes they are not safe within San Francisco jurisdiction, they may choose to initiate an emergency transfer directly with the Authority after concluding internal procedures or simultaneously with the initiation of internal procedures.

External Emergency Transfer

Tenants may initiate a VAWA emergency referral request directly to the Authority. VAWA provisions do not supersede eligibility or other occupancy requirements that may apply under a covered housing program. Tenants must qualify for any non-RAD PBV building or unit. The Authority may be unable to transfer a tenant to a particular
unit if the tenant cannot establish eligibility for that unit.

B. Housing Choice Voucher (Tenant-Based) Tenants

Tenants in the HCV program may request an expedited move within the jurisdiction or a portability move to another jurisdiction, pursuant to policies governing moves and portability in Chapter 10 of the Authority's HCV Administrative Plan.

- For tenants with tenant-based assistance, the Authority will expedite administrative processes for participants who wish to move with their voucher.
- VAWA transfers will override standard restrictions (lease terms, good standing), unless federal law prohibits.
- Receiving PHAs must accept VAWA portability requests regardless of normal billing/absorption practices.

Emergency Transfer Request Documentation

If the covered housing provider does not already have documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking, the covered housing provider may ask for this documentation in accordance with 24 CFR 5.2007. Tenants seeking emergency referrals will have 14 business days to provide documentation evidencing eligibility for an emergency referral. Unless the covered housing provider receives documentation that contains conflicting information, as described in 24 CFR 5.2007(b)(2), covered housing provider cannot require third-party documentation to determine status as a VAWA victim for emergency transfer eligibility. If the covered housing provider receives conflicting information and needs to require additional documentation, the tenant will be given an additional 30 days to produce the additional documents. The covered housing provider will provide reasonable accommodation to this policy for individuals with disabilities.

Confidentiality

The Authority will keep confidential any information that the participant submits in requesting an emergency transfer, and information about the emergency transfer, unless the participant gives the Authority written permission to release the information on a time limited basis, or disclosure of the information is required by law or for use in an eviction proceeding or hearing regarding termination of assistance from the covered housing program. Participants will be notified before any such disclosures are made.

All information related to the participant exercising their right to protection under VAWA will be stored in a file separate from the participant's regular tenant file and will require written authorization from the participant for the Authority to release information.

Safe Unit and Unit Offers

A safe unit refers to a unit or development that the survivor of VAWA violence/abuse believes is safe. A participant that has been approved for a VAWA emergency referral will only be offered units at sites which they have deemed "safe".

The Authority will make a maximum of three (3) unit offers to units/developments that have been deemed safe by the participant. The participant may refuse one offer for any reason; however, the other two offers may only be refused for good cause. A refusal of the third, and final, offer will result in the participant being removed from the emergency referral site-based list. To avoid being removed from the list, the participant is encouraged to alert the Authority if a unit or development that the participant previously deemed "safe" has become "unsafe" for the participant so that the unsafe unit can be removed from the list of vacancies that may be offered to the participant.

Safety and Security of Tenants

Pending processing of the voucher or referral, if it is approved, the participant is urged to take all reasonable precautions to remain safe.

Participants who are or have been survivors of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1800-799-7233, 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 1800-787-3224 (TTY).

Participants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at https://ohl.rainn.org/online/.

Participants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crimes Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.

EXHIBIT 2-6: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Form HUD-5383

U.S. Department of Housing and Urban Development
OMB Approval No. 2577-0286
Exp. 1/31/2028

EMERGENCY TRANSFER REQUEST FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Confidentiality Note: Any personal information you share in this form will be maintained by your covered housing provider according to the confidentiality provisions below.

Purpose of Form: If you are a tenant of housing assisted under a covered housing program, or if you are receiving transitional housing or rental assistance under a covered housing program, you may use this form to request an emergency transfer and certify that you qualify for an emergency transfer under the Violence Against Women Act ("VAWA"). This form refers to domestic violence, dating violence, sexual assault, or stalking as "VAWA violence/abuse."

VAWA protects individuals and families regardless of a victim's age, sex, or marital status.

You may request an emergency transfer when:

1. You (or a household member) are a victim of VAWA violence/abuse;
2. You expressly request the emergency transfer; **AND**
3. **EITHER**
   a. you reasonably believe that there is a threat of imminent harm from further violence, including trauma, if you (or a household member) stay in the same dwelling unit; **or**
   b. if you (or a household member) are a victim of sexual assault, the sexual assault occurred on the premises, and you request an emergency transfer within 90 days (including holidays and weekend days) of when that assault occurred.

A covered housing provider, in response to an emergency transfer request, should not evaluate whether you are in good standing as part of the assessment or provision of an emergency transfer. Whether or not you are in good standing does not impact your ability to request an emergency transfer under VAWA.

However, submitting this form does not necessarily mean that you will receive an emergency transfer. See the Authority's VAWA Emergency Transfer Plan for more information about VAWA emergency transfers and see "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380, for additional housing rights you may be entitled to.

Am I required to submit any documentation? Your covered housing provider may request documentation proving that you, or a household member, are a victim of VAWA violence/abuse, in addition to completing this emergency transfer request form. The request can be met by completing and submitting the VAWA Self-certification Form (Form HUD-5382), unless the covered housing provider receives conflicting information about the VAWA violence/abuse. If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you may, instead, choose to submit that documentation to your covered housing provider. See "Notice of Occupancy Rights Under the Violence Against Women Act," Form HUD-5380, for more information.

Will my information be kept confidential? Whenever you ask for or about VAWA protections, any information you provide about the VAWA violence/abuse or the fact you (or a household member) are a victim, including the information on this form, must be kept strictly confidential. This information will be securely and separately kept from your other tenant files. This information can only be accessed by an employee/agent of your covered housing provider if (1) access is required

for a specific reason, (2) your covered housing provider explicitly authorizes that person's access for that reason, **and** (3) the authorization complies with applicable law. This information will not be given to anyone else or put in a database shared with anyone else, unless your covered housing provider (1) gets your written permission to do so for a limited time, (2) is required to do so as part of an eviction or termination hearing, **or** (3) is required to do so by law.

In addition, your covered housing provider must keep your address strictly confidential to ensure that it is not disclosed to a person who committed or threatened to commit VAWA violence/abuse against you (or a household member).

What if I need this information in a language other than English? If you speak or read in a language other than English, the Authority will give you language assistance regarding your VAWA protections (for example, oral interpretation and/or written translation) upon request and in accordance with its LEP policies.

Can I request reasonable accommodation? If you have a disability, your covered housing provider must provide reasonable accommodations to rules, policies, practices, or services that may be necessary to allow you to equally benefit from VAWA protections (for example, giving you more time to submit documents or assistance with filling out forms). You may request reasonable accommodation at any time, even for the first time during an eviction. If a provider is denying a specific reasonable accommodation because it is not reasonable, your covered housing provider must first engage in the interactive process with you to identify possible alternative accommodations. Your covered housing provider must also ensure effective communication with individuals with disabilities.

Need further help? For additional information on VAWA and to find help in your area, visit https://www.hud.gov/vawa.

To speak with a housing advocate, contact: La Casa de las Madres 415-503-0500.

TO BE COMPLETED BY OR ON BEHALF OF THE PARTICIPANT REQUESTING AN EMERGENCY TRANSFER

1. **Name(s) of victim(s):** Click or tap here to enter text.
2. **Your name** (*if different from victim's*): Click or tap here to enter text.
3. **Name(s) of other household member(s):** Click or tap here to enter text.
4. **Name(s) of other household member(s) who would transfer with the victim:** Click or tap here to enter text.
5. **Name of the perpetrator** (*if known and can be safely disclosed*): Click or tap here to enter text.
6. **Address of location from which the victim seeks to transfer:** Click or tap here to enter text.
7. **Current Unit Size (# of bedrooms):** Click or tap here to enter text.
8. **What is the safest and most secure way to contact you? (You may choose more than one.)**
   If any contact information changes or is no longer a safe contact method, notify your covered housing provider.

   ☐ Phone Phone Number: Click or tap here to enter text.
   Safe to receive a voicemail: ☐ Yes ☐ No

   ☐ E-mail E-mail Address: Click or tap here to enter text.
   Safe to receive an email: ☐ Yes ☐ No

☐ Mail Mailing Address: Click or tap here to enter text.
Safe to receive mail from your housing provider: ☐ Yes ☐ No

☐ Other Please List: Click or tap here to enter text.

9. **Anything else your housing provider should know to safely communicate with you?** Click or tap here to enter text.

10. **What features are requested for a safe unit?** You may list here any information that would facilitate a suitable transfer, such as accessibility needs, and a description of where it is safe or unsafe for you to live. (*Please note that the ability to provide an emergency transfer is based on unit availability*.)

☐ New Neighborhood ☐ New Building
☐ First Floor unit ☐ Second Floor unit (and above)
☐ Near an Exit ☐Well-lit hallways/walkways
☐ 24-hour Security ☐ Accessible unit

Other: Click or tap here to enter text.

To approve your request for an emergency transfer, your covered housing provider may require that you provide written documentation that you (or a household member) are a victim of VAWA violence/abuse. Your covered housing provider must make this request for documentation in writing. You can choose to submit **any one** of the following types of documentation:

- Form HUD-5382 *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation*, which asks your name and the perpetrator's name (if known and safe to provide);
- A document signed by a victim service provider, attorney, mental health professional, or medical professional who has helped you address the VAWA violence/abuse. The professional must state "under penalty of perjury" that he/she/they believe in the occurrence of the incident of VAWA violence/abuse and that it is covered by VAWA. Both you and the professional must sign the statement;
- A police, administrative, or court record (such as a protective order) that shows you (or a household member) are a victim of VAWA violence/abuse; OR
- If permitted by your covered housing provider, a statement or other evidence provided by you.

Certification of Tenant: By signing below, I am certifying that the information provided on this form is true and correct to the best of my knowledge and recollection, and that I meet the conditions described on this form to qualify for an emergency transfer.

Click or tap here to enter text. Click or tap here to enter text.

Signature **Date**

EXHIBIT 2-7: NOTICE TO OWNERS AND MANAGERS REGARDING YOUR OBLIGATIONS UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

HOUSING AUTHORITY OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) and Project Based Voucher (PBV) applicants 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 (hereinafter called "survivor of VAWA violence/abuse"). This notice explains your rights and obligations under VAWA.

Purpose

Many of VAWA's protections to survivor of VAWA violence/abuse involve action by the Housing Authority of the City and County of San Francisco (herein called the "Authority"), but some situations involve action by owners and managers (hereinafter called "landlords") of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as a landlord of housing assisted through the Authority's HCV program. Each component of this Notice also provides citations to the U.S. Department of Housing and Urban Development's (HUD) applicable regulations.

Denial of Tenancy

Protection for applicants: **Owners cannot deny tenancy based on the applicant having been or currently being a survivor of VAWA violence/abuse.** However, the applicant must be otherwise eligible for tenancy. (See 24 CFR 982.452(b)(1)). In the HCV program administered by the Authority, the Authority makes the eligibility determination for admission into the program and the landlord makes the suitability determination for tenancy. The landlord may not deny an applicant tenancy due to adverse factors directly related to their status as a survivor of VAWA violence/abuse.

Eviction

Protections for HCV participants: **Incidents or threats of VAWA violence/abuse will not be considered a serious or repeated lease violation by the survivor, or good cause to terminate the tenancy of the survivor** (24 CFR 5.2005(c)). This protection also applies to criminal activity related directly to VAWA violence/abuse conducted by a member of a participant's household or any guest or other person under the participant's control, if the participant or an affiliated individual of the participant is the victim or threatened victim of such VAWA violence/abuse (24 CFR 5.2005(b)(2)).

Documentation of VAWA violence/abuse

If an applicant or participant requests VAWA protection based on status as a survivor of VAWA violence/abuse, you have the option to request that the survivor document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD's regulation requires you to request this documentation. (See 24 CFR 5.2007(b)(3)).

If you choose to request this documentation, you 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). **Which type of documentation to provide from the list below is completely the decision of the applicant or participant**:

1. Form HUD-5383 Self Certification Form (See Exhibit 2-3); or
2. A document:
    a. 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 survivor of VAWA violence/abuse has sought assistance relating to VAWA violence/abuse, or the effects of abuse;

    b. Signed by the applicant or tenant; and

    c. That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of VAWA violence/abuse 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, and stalking under 24 CFR 5.2003; or

3. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
4. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

You must accept any of the above items (1-4). You have discretion to accept a statement or other evidence (4). You are prohibited from requiring third-party documentation of VAWA violence/abuse, unless the submitted documentation contains conflicting information.

If you make a written request for documentation, you may require submission of that documentation within 14 business days after the date that the individual receives the written request for documentation. (24 CFR 5.2007(a)(2)). You may extend this time period at your 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 requested VAWA protection.

Once a participant provides documentation of VAWA violence/abuse, you are encouraged to acknowledge receipt of the documentation in a timely manner.

If the applicant or participant 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, you may: Deny admission by the applicant or participant to the housing; or Evict the participant, or lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of VAWA violence/abuse does not result in a waiver of the individual's right to challenge the denial of admission or termination, nor does it preclude the individual's ability to raise an incident of VAWA violence/abuse at eviction or termination proceedings.

Moves

A survivor of VAWA violence/abuse 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.

You can assist the Authority in getting survivors of VAWA violence/abuse moved more quickly by engaging in the internal transfer process. This entails reviewing your portfolio of sites for which you receive subsidy from the Authority to locate a

vacant, safe unit that the participant may be moved to. Transfers through this internal process must be reported to the Authority to ensure continued subsidies are sent to the appropriate property and new applicants are referred to the newly vacated unit.

Removing the Abuser from the Household (Lease Bifurcation)

You may choose to bifurcate a lease or remove a household member from the lease in order to evict, remove, terminate occupancy rights to such member who engages in criminal activity directly relating to VAWA violence/abuse against an affiliated individual or other individual. (See 24 CFR 5.2009(a)). If you chooses to bifurcate the lease, you 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 participant of the Authority's HCV program.

Eviction, removal, termination of occupancy rights, or termination of assistance must be effected in accordance with the procedures prescribed by federal, state, and local law for termination of leases.

To avoid unnecessary delay in the bifurcation process, HUD recommends that landlords seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the landlord regains possession of the unit. The landlord would then execute a new lease with the remaining participant(s).

Notwithstanding any decision you may come to based on documentation of VAWA violence/abuse, you must comply, when notified of a court order, with respect to (24 CFR 5.2005(d)(1)):

The rights of access or control of property, including civil protection orders issued to protect a survivor of VAWA violence/abuse; or
The distribution or possession of property among members of a household in a case.

Evictions Due to "Actual and Imminent Threat" or Violations Not Premised on Abuse

You may evict a participant for any violation *not* premised on an act of VAWA violence/abuse that is in question against the participant or an affiliated individual of the participant, as long as you do not subject the survivor of VAWA violence/abuse to more demanding standards than other participants when deciding whether to evict. (See 24 CFR 5.2005(d)(2)).

You may also evict a participant for violations that are premised on an act of VAWA violence/abuse if you can demonstrate that an actual and imminent threat to other tenants or those employed at or providing services to the property would be present if that participant 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, you 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).)

Any eviction due to "actual and imminent threat" should be utilized only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to:

- transferring the survivor 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)).

Confidentiality

Any information submitted to you under 24 CFR 5.2007, including the fact that an individual is a survivor of VAWA violence/abuse, must be maintained in strict confidence. (See 24 CFR 5.2007(c).)

Your employees (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by you 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 VAWA protection to the victim).

You 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 participant, you must take precautions to ensure compliance with these confidentiality requirements.

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 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:
La Casa De Las Madres, 1815 Egbert Ave, San Francisco, CA 94124
Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking Housing Authority of the City and County of San Francisco VAWA Notice of Occupancy Rights

CHAPTER 3: ELIGIBILITY

The Authority 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 Authority 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 Authority.
- 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 Authority's collection and use of family information as provided for in Authority- provided consent forms.
- Not currently be receiving duplicative subsidy
- Meet net asset and property ownership restriction requirements

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

This chapter contains three parts:

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

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

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g., criminal activity) that can cause the Authority to deny assistance, as well as the asset limitation for HCV.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. Overview

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. This part provides information that is needed to correctly identify family and household members and to determine whether each household member and the family as a whole are eligible for admission into the program. The Authority must verify all eligibility- related information as discussed in Chapter 7.

3-I.B. Family and Household

[24 CFR 5.403; 24 CFR 982.201(c), 77 Fed. Reg. 5662, Notice PIH 2014-20, Notice PIH 2023-27]

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

Family

To be eligible for assistance, the applicant(s) must qualify as a family. *Family,* as defined by HUD, includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

(1) a single person, who may be (i) an elderly person, displaced person, disabled person, near- elderly person, or any other single person; (ii) an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; or

(2) a group of persons residing together, and such group includes but is not limited to: (i) 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); (ii) an elderly family; (iii) a near-elderly family; (iv) a disabled family; (v) a displaced family; and (vi) the remaining member of a tenant family. The Authority has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means how a person self-identifies their gender, or their internal understanding of their gender. A person's gender identity may or may not correspond with social norms or stereotypes related to the sex they were assigned at birth. There are many terms related to gender with which a person may identify, including but not limited to: agender; androgynous; bigender; cisgender; cisgender man; cisgender woman; gender fluid; gender non-conforming; gender- expansive; genderqueer, non-binary, pangender, Two-Spirit, transgender, trans, transgender man, transgender woman, masculine, and feminine. One's gender identity may be described through any number of ever-expanding terms or definitions, and one's gender identity may be subject to change by the individual.

Sexual Orientation means one's physical, emotional, romantic, or sexual attraction to people of a particular gender or multiple genders, or lack thereof, and is distinct from their gender expression or gender identity. A person's sexual orientation may be identified by terms including, but not limited to, asexual, bisexual, gay, lesbian, heterosexual, homosexual, pansexual, and queer.

Authority Policy

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

Each family must identify the individuals to be included in the family ***at the time of application*** and must notify the Authority if the family's composition changes by submitting a "waitlist update" form with the family members to be added or removed.

After the family has been admitted into the program, the head of household may request additions to the household by submitting an add request form. (*See Chapter 11 for more on circumstances in which additions may be made.*)

Married couples claiming to be separated must present evidence of such and will be evaluated on a case-by-case basis. The Authority may require, but is not limited to, the following information:

- Court Filing of divorce.
- Statement from attorney preparing the divorce.
- Tax-returns with filing status.
- Notarized statements and/or Authority certification(s).
- Bank statements.

Victims of domestic violence, dating violence, sexual assault, or stalking claiming to be separated from their spouse do not need to provide the above documentation if it is not safe.

Household

Household is a broader term that includes additional people who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Waitlist Update After the Death of the Sole Family Member

Applicants may add individuals to their application for assistance at any time, prior to being admitted to the program, by submitting a "waitlist update" form. The Authority must immediately withdraw application for program assistance for a deceased single member family. The Authority will continue to respond to pending waitlist update requests that have been submitted to the Authority prior to or on the date of death. The pending request must be date stamped by the Authority. Any requests submitted after death or without a date stamp claiming an individual was intended to be added as a family member to the application of a deceased single member family applicant will receive an automatic denial.

3-I.C. Family Breakup and Remaining Member of Tenant Family Breakup

[24 C.F.R. § 982.315]

The PHA has discretion to determine which members of an assisted family continue to receive assistance in the program if the family breaks up.

If a court determines the disposition of property between members of the applicant or participant family, the Authority is bound to abide by the court's determination of which family members continue to receive assistance. This includes cooperating with law enforcement authorities to enforce civil protection orders issued for the protection of victims and addressing the distribution of personal property among household members in cases where a family breaks up.

If the family breakup results from an occurrence of VAWA violence/abuse, the PHA must ensure that the survivor retains assistance. (See Section 2-IV for policy on VAWA).

Authority Policy

Breakup of Applicant Families

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.

Breakup of Participant Families

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

Factors When Making Family Breakup Determinations

In the absence of a judicial decision or an agreement among the original family members, the Authority will take into consideration the following factors to determine which family will retain their placement on the waiting list or continue to receive assistance. (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 survivor of VAWA violence/abuse, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse *(see Chapter 2-IV for VAWA policies)*; (4) any possible risks to family members as a result of criminal activity; and (5) the recommendations of social service professionals.

Voucher Determination

In all instances, the household must notify the Authority, in writing, within fifteen (15) calendar days of the action causing the household to split and request a determination of the assignment of the voucher.

In no case will the Authority provide an additional voucher to the household member(s) who are removed from the original household voucher. The household members who are removed from the original household unit may

apply for assistance on a separate application if a waitlist is open and may be entitled to full preferences, as applicable.

Remaining Member of a Tenant Family [24 C.F.R. § 5.403]

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

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

3-I.D. Head of Household

[24 C.F.R. § 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.

Authority 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.

The head of household is the designated family member to request changes on an application, request an interim recertification and to request an addition to the subsidy program.

3-I.E. Spouse, Co-head, and Other Adult

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

Spouse means the marriage partner of the head of household.

Authority Policy

The term "spouse" does not apply to friends, roommates, or significant others who are not marriage or domestic partners. A minor who is emancipated under state law may be designated as a spouse.

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

Authority Policy

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

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

3-I.F. Dependent

[24 C.F.R. § 5.603]

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

Joint Custody of Dependents

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

3-I.G. Full-Time Student

[24 C.F.R. § 5.603; HCV GB, p. 5-29]

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

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

No section 8 assistance shall be provided to any FTS who:

- Is enrolled as a student at an institution of higher education;
- Is under the age of 24;
- Is not a veteran of the United States military;

- Is unmarried;
- Does not have a dependent child;
- Is not a person with disabilities, as such term is defined in section 3(b)(3)(E) of the United States Housing Act of 1937 (42 U.S.C.1437a(b)(3)(E)) and was not receiving assistance under such section 8 as of November 30, 2005; and
- Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to receive section 8 assistance.

3-I.H. Full-time College Students of Non-Parental/Guardian Households

Full-time college students of non-parental/guardian households are not eligible for admission to the Housing Choice Voucher, Project-based Voucher, Public Housing, and Housing Choice Voucher Rehabilitation Programs unless students meet the following eligibility standards:

1. The student must be 18 and/or be an emancipated minor under state law.
2. The student must be income-eligible for admission.
3. Veteran.

Parents are defined as the biological or adoptive parents, or guardians (e.g., grandparents, aunt/uncle, godparents, etc.).

The Housing Authority is required to verify and include the following source of income for full- time college students of non-parental/guardian household:

Financial support such as money, food, clothing, personal items, and entertainment. The financial

support must come from an outside source such as parents or guardians in the form of "periodic and determinable allowance" or "regular contributions or gifts."

3-I.I. Elderly and Near-Elderly Persons, and Elderly Family

[24 C.F.R. § 5.100, 5.403, 77 Fed. Reg. 5662]

Elderly Persons

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

Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age.

Elderly Family

An *elderly family* is one in which the head, spouse, co-head, or sole member is an elderly person. Identifying elderly families is important because elderly families qualify for the elderly family deduction and the medical deduction as described in Chapter 6.

3-I.J. Persons with Disabilities and Disabled Family

[24 C.F.R. § 5.403, 77 Fed. Reg. 5662]

Persons with Disabilities

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

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

Disabled Family

A *disabled family* is one in which the head, spouse, or co-head is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance as described in Chapter 6.

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

3-I.K. Guests

[24 C.F.R. § 5.100]

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

Authority Policy

A guest cannot remain in the assisted unit longer than 30 consecutive days or a total of 90 cumulative calendar days during any 12-month period.

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 or in the case of foster, a letter from the SF Human Services Agency/Child Welfare Agency certifying the status of any minors placed in the household temporarily.

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

3-I.L. Foster Children and Foster Adults

[24 CFR 5.603]

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

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

Foster adults/children who are living with an applicant of who have been approved by the PHA to live with a participant family are not considered "family members" and must *not* be included in calculations of income for eligibility and rent determination purposes and do not qualify for a dependent deduction. [24 CFR 5.603; HUD-50058 IB p. 13]. However, foster adults/children are considered *household members* and must be included when determining unit size or subsidy standards based on established policies.

Authority 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 according to 24 C.F.R. § 982.401.

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

3-I.M. 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

Authority Policy

An individual who is or is expected to be absent from the assisted unit for 60 consecutive days or less is considered temporarily absent and continues to be considered a family member. An individual who is or is expected to be absent from the assisted unit for more than 60 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

Authority Policy

A dormitory-style living arrangement is not considered as establishing a separate household.

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 Authority 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 C.F.R. § 5.403]
Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

Authority Policy

Families must notify the Authority if a child who is a member of the assisted household is absent due to foster care placement within 30 days of removal from the household. Failure to report a child's absence may result in a finding of noncompliance with program requirements.

Temporary Absence
If a child who is a family member of the assisted household is placed in foster care, the Authority will determine whether the child is temporarily or permanently absent from the unit based on the length and circumstances of the placement.

A child placed in foster care will be considered temporarily absent if the anticipated placement is 90 consecutive days or less, and the family provides documentation from the foster care agency or caseworker indicating reunification is expected within that timeframe. The child will remain a family member for rent calculation and unit size purposes during the temporary absence.

Permanent Absence
If the foster care placement exceeds 90 consecutive days, or if documentation indicates that the child is unlikely to return, the Authority will consider the child permanently absent and remove them from the household for subsidy determination and occupancy standards.

Extension Requests
The Authority may allow one extension of up to 60 additional days (for a total of 150 days) if the family provides updated information from the caseworker showing that reunification is actively planned and reasonably expected within that time. Requests must be submitted before the initial 90-day period ends.

Reinstatement of Household Member
If the child returns home after being removed from the household composition, the family must notify the Authority within 30 days of return and provide documentation as requested. The Authority will add the child back to the household upon verification of reunification.

A foster child or foster adult may be included in the HCV application or renewal of the foster family.

Absent Head, Spouse, or Co-Head

Authority Policy

An employed head, spouse, or co-head absent from the unit more than 60 consecutive days due to employment will continue to be considered a family member.

Deployment of Military Personnel

A head or co-head who is absent from the unit due to military service for more than 60 days may be removed from the household composition and added back to the household once their military service is completed as long as there is at least one remaining family member in the assisted unit. The Military Personnel or any member of their household must inform the Property Office within 15 days of their return to the unit.

The Authority will also allow a suitable guardian to move into the assisted unit on a temporary basis to care for any dependents that the military person leaves in the unit. Income of the guardian temporarily living in the unit solely for this purpose is not to be counted in determining family income and the amount of rent the family pays based on family income. The temporary suitable guardian to assist with the dependent care must move out within 15 days of the Military Personnel returning home. Members of the military family cannot be absent for more than 60 consecutive days.

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

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

Authority Policy

The Authority 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 Authority will consider, any additional documentation or evidence.

Return of Permanently Absent Family Members

Authority Policy

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

3-I.N. Live-in Aide

A *live-in aide* is a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well- being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit

except to provide the necessary supportive services [24 C.F.R. § 5.403].

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

A live-in aide is considered a household member but not a family member. The income of a live-in aide is not counted in the calculation of annual income for the family [24 C.F.R. § 5.609(b)].

Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. Because live-in aides are not family members, a relative who serves as a live-in aide would not be considered a remaining member of a tenant family.

Under VAWA, live-in aides are not considered affiliated individuals and are not afforded VAWA protections that are only available to participants. As a reasonable accommodation, a participant can request VAWA protections based on the grounds that the live-in aid is a survivor of VAWA violence/abuse. In addition, other reasonable accommodations may be needed on a case-by-case basis. In cases where a guest or unassisted member is a survivor of VAWA violence/abuse, a participant cannot be evicted or have assistance terminated on the basis of VAWA violence/abuse of the guest or unassisted member.

Authority Policy

A family's request for a live-in aide must be made in writing.

The Authority will request an acknowledgement from the landlord affirming their knowledge of the live-in aide prior to the processing of the interim to add the live-in aide to the voucher.

The Authority will verify from a reliable, knowledgeable professional (such as a doctor, social worker, or case worker) that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member.

For continued approval, the family must submit a new, written request-subject to Authority verification- at each annual reexamination.

If requested as a reasonable accommodation, refer to Chapter 2 for policy.

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 Authority has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval if [24 C.F.R. § 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 and refuses to enter into a repayment agreement with another PHA or pay the entire debt with the Authority.

The Authority will notify the family of its decision in writing within thirty (30) calendar days of receiving a request for a live-in aide. The thirty (30) calendar days begin from the date that the completed live-in aid packet was submitted to the Authority. The completed packet includes all required documentation related to the request.

Once added as a live-in aide, the person may not be changed to a family member.

A live-in aide has no rights to the voucher. Generally, a live-in aide cannot become a family member. Any requests for a live-in aide to become a family member will be reviewed on a case-by-case basis. A live-in aide cannot be the owner of the subsidized unit.

An existing family member cannot become a live-in aide.

Any person that has been part of the household for the past 12 months cannot be added as a live-in aide.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. Income Eligibility and Targeting Income Limits

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

Definitions of the Income Limits [24 C.F.R. § 5.603(b)]

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

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

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever 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, 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 C.F.R. § 982.201]

Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size. In order to be income eligible, an applicant family must be one of the following:

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

Authority Policy

The Authority will consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were selected from the Authority's waiting list.

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

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

HOPE SF Authority Policy

Families who are residents of the HOPE SF developments will be subject to the Relocation Plan for their particular development. All families of HOPE SF sites must be in Good Standing in order to move into the revitalized units. Good Standing requires that the Authority did not file a Summons and Complaint against any member of the household or been evicted. (Board Resolution #5390) Notwithstanding the above, a family will be eligible to move if the family has an active Unlawful Detainer action against them, and they are in a repayment agreement and current on the repayment agreement.

Using Income Limits for Targeting [24 C.F.R. § 982.201]

At least 75 percent of the families admitted to the PHA's program during a PHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if the PHA demonstrates that it has made all required efforts but has been unable to attract an adequate number of qualified extremely low-income families. If admissions of extremely low-income families to the PHA's housing choice voucher program during a PHA fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against the PHA's public housing basic targeting requirement for the same fiscal year.

Families continuously assisted under the 1937 Housing Act and families living in eligible low- income housing that are displaced as a result of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not counted for income targeting purposes.

3-II.B. Citizenship or Eligible Immigration Status

[24 C.F.R. 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.

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

Declaration [24 C.F.R. § 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens.

For citizens, nationals, and eligible noncitizens the declaration must be signed personally by the head, spouse, co-head, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

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

Authority Policy

Family members who declare citizenship or national status will be required to provide verification of this status pursuant to Section 7-II.G.

Eligible Noncitizens and VAWA Self-Petitioners

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

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

Ineligible Noncitizens

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

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

Mixed Families

A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered mixed families. Such families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 16 for a discussion of informal hearing procedures. See Exhibit 7-3 for acceptable verification documentation.

Ineligible Families [24 C.F.R. § 5.514(d)-(f)]

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

Authority Policy

The Authority will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen.

When the Authority determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 30 calendar days of the determination.

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

Informal Review procedures are contained in Chapter 16.

Timeframe for Determination of Citizenship Status [24 C.F.R. § 5.508(g)]

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

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

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

Authority Policy

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

3-II.C. Social Security Numbers

[24 C.F.R. § 5.216, 5.218, Notice PIH 2012-10]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within 6 months prior to voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of the effective date of the initial HAP contract. A detailed discussion of acceptable documentation is provided in Chapter 7.

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

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

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 C.F.R. § 5.216.

3-II.D. Family Consent to Release of Information

[24 C.F.R. § 5.230; HCV GB, p. 5-13]

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886/9886-A, Authorization for the Release of Information/Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms which allow the PHA to obtain information that the PHA has determined necessary in administration of the HCV programing accordance with 24 C.F.R. Part 5, Subparts B and F [24 C.F.R. § 982.552(b)(3)].

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

Authority Policy

The Authority will deny admission to the program for applicants or terminate assistance for participants in the program if any adult member of the applicant or participant family revokes or fails to grant consent to access financial records from financial institutions.

3-II.E. Students Enrolled in Institutions of Higher Education

[24 C.F.R. § 5.612, 81 Fed. Reg. 64,932]

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

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

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

Definitions

In determining whether and how the new eligibility restrictions apply to a student, the PHA will rely on the following definitions. [71 Fed. Reg. 18,146 (HUD Apr. 10, 2006) (notice), 81 Fed. Reg. 64,932 (HUD Sept. 21, 2016) (notice).]

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 C.F.R. 5.603, which states that the dependent must be a member of the assisted family, other than the head of household or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student. Foster children and foster adults are not considered dependents.

Independent Student

Authority Policy

The Authority will consider a student "independent" from his or her parents and the parents' income will not be considered when determining the student's eligibility if the following criteria are all met:

- The individual is of legal contract age under state law.
- The individual has established a household separate from his/her parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of independent student.

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

- The individual is at least 24 years old by December 31 of the award year for which aid is sought.
- The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older.
- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence.
- The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes.
- The individual is a graduate or professional student.
- The individual is married.
- The individual has one or more legal dependents other than a spouse (for example, dependent children or 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; or
    - A financial aid administrator.
- The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.
- The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms.
- The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

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

Institution of Higher Education

The PHA 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

Authority Policy

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

Person with Disabilities

Authority Policy

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

Veteran

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

Vulnerable Youth

Authority 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 81 Federal Register 64,932 (HUD Sept. 21, 2016):

- 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; or
- 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:

    1. A local educational agency homeless liaison;
    2. 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; or

3. A financial aid administrator.

Determining Student Eligibility

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

For any student who is subject to the section 5.612 restrictions, the PHA will:

- Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program;
- Determine whether the student is independent from his/her parents in accordance with the definition of independent student in this section; and
- Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program.

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

Determining Parental Income Eligibility

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 his/her parents and has not had contact with or does not know where to contact his/her 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

[PIH Notice 2023-27]

Existing Tenant Search

Authority Policy

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

Debts Owed to PHAs and Terminations

Authority Policy

The Authority 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 Authority will search the Debts Owed to PHAs and Termination 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 into the program. If any information on debts or terminations is returned by the search, the Authority will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

PART III: DENIAL OF ASSISTANCE

3-III.A. Overview

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

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

- Denial of not placing the family's name on the waiting list.
- Denying or withdrawing a voucher.
- Not approving a request for tenancy or refusing to enter into a HAP contract.
- Refusing to process a request for or to provide assistance under portability procedures assistance includes any of the following [24 C.F.R. § 982.202(b), 24 C.F.R. § 5.2005(b)]:
    - Age, disability, race, color, religion, sex, or national origin. (See Chapter 2 for additional information about fair housing and equal opportunity requirements).
    - Where a family lives prior to admission to the program.
    - Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside the PHA's jurisdiction 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 family includes children.
    - Whether a family decides to participate in a family self-sufficiency program.
    - Whether or not a qualified applicant is or has been a survivor of VAWA violence/abuse if the applicant is otherwise qualified for assistance. (*See section 2-IV.G.*).

3-III.B. Denial of Assistance

[24 C.F.R. § 982.553(a)]

HUD requires the PHA to prohibit admission to the program of an applicant for three years from the date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity.

The PHA may admit an otherwise-eligible household if the PHA determines: the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or that the circumstances leading to eviction no longer exist (e.g., the criminal household member has died or is imprisoned).

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 [24 C.F.R. 5.100].

Authority Policy

The Authority will exercise its discretion to admit an otherwise-eligible family who was evicted from federally- assisted housing within the past (3) years for drug-related criminal activity if:

- the family provides documentation verifying that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the Authority, or
- The family certifies that the circumstances leading to the eviction no longer exist (for example, if the person who committed the crime has died or is in prison).

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

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. § 802].

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.

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

Authority Policy

In determining reasonable cause, the Authority 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 of arrest(s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying criminal activity. An arrest must be substantiated by a supporting document of criminal activity.

Arrest records or police reports will not be used as the sole basis for denying admission. A conviction will be given more weight than an arrest. 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. Other Permitted Reasons for Denial of Assistance

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

Authority Policy

Discretionary reasons for denial of assistance outlined in 24 CFR 982.552 and 24 CFR 982.553 and further defined through policy in this Plan may not be applied to families referred for targeted assistance under the Veterans Assistance and Supportive Housing (VASH) program or the Family Unification Program (FUP).

Criminal Activity [24 C.F.R. § 982.553]

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

Authority Policy

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

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 C.F.R. § 5.100].

- Illegal possession and/or use of a firearm or aggravated assault weapon in violation of federal, state, or local criminal or civil laws.
- 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* is defined by a quarter-mile radius of the premises.
- 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.
- Criminal activity that may threaten the health or safety of property owners, management staff, and persons performing contract administration functions or other responsibilities on behalf of the Authority (including an Authority employee or an Authority contractor, subcontractor, or agent).
- Criminal sexual conduct, child molestation, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.
- Convicted of arson.

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past three (3) years. A conviction for such activity will be given more weight than an arrest or an eviction.

In making its decision to deny assistance, the Authority will consider the factors discussed in Section 2-IV.G (VAWA Prohibitions). Upon consideration of such factors, the Authority has the discretion not to deny assistance.

An arrest must be substantiated by a supporting document of criminal activity. Arrest records or police reports will not be used as the sole basis for denying admission.

Previous Behavior in Assisted Housing [24 C.F.R. § 982.552(c)]

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

In the event of the receipt of unfavorable information with respect to an applicant, the PHA must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 2-IV.G., the PHA may also need to consider whether the cause of the unfavorable information may be that the applicant is the survivor of VAWA violence/abuse.

Per the alternative requirements listed in the *Federal Register* notice dated December 29, 2014, PHAs are no longer permitted to deny assistance to a family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program [FR Notice 12/29/14].

Authority Policy

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

- The family does not provide information that the Authority or HUD determines is necessary in the administration of the program.
- Any PHA has ever involuntarily terminated assistance under the program for any member of the family.
    - *Involuntarily terminated* means the family was removed from the program against their will. A family who voluntarily withdraws from the program by submitting a written request to the Authority is not considered to have involuntarily removed from the program.
- The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other

  amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list(s).
- The family has a pattern of eviction from housing or termination from residential programs within the past three (3) years (considering relevant circumstances).
- The family owes rent or other amounts to this or any other PHA or owner in connection with any assisted housing program per Authority records or as indicated in the HUD EIV Debts Owed module. This will include

breach of the terms of a repayment agreement entered into with the PHA, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list(s).

  - Exception: Households subsidized through the Authority that are converting from the traditional Low Income Public Housing (LIPH) subsidy to the Housing Choice Voucher (HCV) Program through Section 18 or the Rental Assistance Demonstration (RAD) Program through December 2021 will not be required to repay the full amount of debt owed to the Authority prior to conversion.

- The family does not provide complete and true information to the Authority. This includes if the family misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent.
- The family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family has engaged in or threatened violent or abusive behavior towards Authority personnel:
  - Abusive or violent behavior towards Authority personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
  - Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.
  - In making its decision to deny assistance, the Authority will consider the factors discussed in Section 2-IV.G. (VAWA Prohibitions).

3-III.D. Screening for Eligibility

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

Authority Policy

The Authority will perform criminal background checks through third party services for every adult household member. The Authority may use the criminal records system of the City and County of San Francisco, the State of California, the NCIC, and other states and/or municipalities as well as local law enforcement to check for criminal history for all adult household members.

If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, the Authority may

request a fingerprint card and will request information from the National Crime Information Center (NCIC) or the Authority may obtain the information for a similar agency.

Fingerprint data results are to be accessed only by individuals with appropriate clearance, access approval or in a clearly identified need-to-know situation. The user of said information is to practice extreme discipline in handling and disclosing only the information necessary to execute the assignment. Rank, title and/or position do not qualify individuals as having "need-to know" status.

Authority Policy: RAD/PBV Programs

The Authority will perform criminal background checks through third party services for every adult household member.

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 C.F.R. § 982.553(a)(2)(i)].

Authority Policy

The Authority 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].

Additionally, the Authority will 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].

Should the Authority's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, the Authority must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household within 90 calendar days of the Authority's request, the Authority must deny admission to the family [Notice PIH 2012-28].

Where the PHA learns that a lifetime registered sex offender was admitted after June 25, 2001, the PHA must immediately pursue termination of assistance [Notice PIH 2012-28]. If the PHA proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission [24 C.F.R. § 5.903(f) and 5.905(d)].

Screening for Suitability as a Tenant by Landlord [24 C.F.R. § 982.307]

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

Authority Policy

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

The owner is responsible for screening and selection of the family to occupy the owner's unit, subject to statute and regulations governing VAWA (see section 2-IV). The PHA must inform the owner that screening and selection for tenancy is the responsibility of the owner. An owner may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

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

The PHA may not disclose to the owner any confidential information provided to the PHA by the family as part of VAWA documentation, or in relation to any other VAWA related matter, including the fact that an individual is a survivor of VAWA violence/abuse unless disclosure is requested or consented to in writing by the individual in a time-limited release; is required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or is otherwise required by applicable laws. *(See 2-IV.E for VAWA confidentiality policies) [24 CFR 5.2007(c)(2)]*.

3-III.E. Criteria for Deciding to Deny Assistance Evidence
[24 C.F.R. § 982.553(c)]

Authority Policy

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

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

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances [24 C.F.R. § 982.552(c)(2)]

HUD authorizes the PHA to consider all relevant circumstances when deciding whether to deny assistance based on a family's past history except in the situations for which denial of assistance is mandatory *(see Section 3-III.B)*. Where the PHA has been made aware of an accusation of VAWA violence/abuse, HUD requires the PHA to consider whether the relevant circumstances are based on, or a direct result of, the fact that the applicant is the survivor of VAWA violence/abuse *(see Section 2-IV.G)*.

Authority Policy

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

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property.
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure to act.
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 2- IV.G) a survivor of VAWA violence/abuse.
- 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 of arrest(s) will not be used as the 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 Authority may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The Authority 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.
- Evidence of rehabilitation, including but not limited to satisfying

parole/probation, receiving education/training, participating in alcohol/drug treatment programs, letters of recommendation.

- Evidence of applicant family's participation in social services or other appropriate counseling service programs and the availability of such programs.
- 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 Authority will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

Removal of a Family Member's Name from the Application

The PHA may permit the family to exclude the culpable family members as a condition of eligibility [24 C.F.R. § 982.552(c)(2)(ii)].

Authority 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 Authority request.

Reasonable Accommodation [24 C.F.R. § 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the PHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 C.F.R. Part 8. See Chapter 2 for a discussion of reasonable accommodation.

3-III.F. Notice of Eligibility or Denial

If the family is eligible for assistance, the PHA will notify the family in writing and schedule a tenant briefing, as discussed in Chapter 5.

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

Authority Policy

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

30 calendar days of the determination.

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

Authority Policy

If based on a criminal record or sex offender registration information, an applicant family appears to be ineligible, the Authority 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 15 calendar days to dispute the accuracy and relevance of the information. If the family does not contact the Authority to dispute the information within that 15 calendar day period, the Authority will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal review process.

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

Notice policies related to denying admission to applicants who may be survivors of VAWA violence/abuse are contained in Section 2-IV.D.

3-III.G. Add Household/Family

A participant family that has a pending add request at the time of the sole family members death or conversion from one program to another (RAD), will not be added to the family or household. The add request must have been processed and approved at the time of the sole family members death in order for the add applicant(s) to remain in the unit. The Authority will consider requests where approval or processing is delayed due to the Authority's error or delay.

3-III.H. Restriction on Assistance Based on Assets [24 CFR 5.618]

Assistance may not be provided to any family if their net assets exceed $100,000 (adjusted annually); or the family has a present ownership interest in, a legal right to reside in, and the effective legal authority to sell real property that is suitable for occupancy by the family as a residence.

For the restriction to apply, a property must be considered suitable for occupancy. The regulations state that one of the criteria for a property to be considered suitable for occupancy is that it must be sufficient for the size of the family.

Authority Policy

The Authority will only apply this regulation to new applications going forward during eligibility determination. Existing participants who are declaring family composition and/or income changes under the Interim or Annual recertification process will not be subject to removal from the program if they obtain an asset with a net worth over $100,000. This includes but is not limited to inherited property and/or assets from a family member, or lottery lump-sum asset.

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

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 C.F.R. § 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:

- In General
    - The term "developmental disability" means a severe, chronic disability of an individual that:
        - is attributable to a mental or physical impairment or combination of mental and physical impairments;
        - is manifested before the individual attains age 22;
        - is likely to continue indefinitely;
        - 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
        - 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.
- Infants and Young Children
    - An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.
- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

- People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.
- A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

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

Individual with Handicaps [24 C.F.R. § 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 one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
3. Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
4. *Is regarded as having an impairment* means:
    a. Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
    b. Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
    c. Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

EXHIBIT 3-2: DEFINITION OF INSTITUTION OF HIGHER EDUCATION [20 U.S.C. §§ 1001, 1002]

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

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

Definition of ''Institution of Higher Education'' From 20 U.S.C. § 1001

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

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

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

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

(4) Is a public or other nonprofit institution; and

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

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

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

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

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

Definition of ''Institution of Higher Education'' From 20 U.S.C. § 1002

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

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

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

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

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

(2) Institutions outside the United States

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

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

(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 CEO has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

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

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

(b) Proprietary institution of higher education

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

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

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

(C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;

(D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;

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

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

(2) Additional institutions. The term ''proprietary institution of higher education'' also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students, persons who

are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution.

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

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

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

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

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

CHAPTER 4: APPLICATIONS, WAITING LIST AND TENANT SELECTION

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 as 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 and Debts Owed Form HUD – 52675 (signed by all adults), as part of the PHA's application.

Authority Policy

See Section 4-III.C.2.

Except for HUD special admissions, targeted funding, and preference categories, the Authority will only accept applications when the waiting list(s) is open. After the Authority announces the opening of the waiting list(s), families may apply for assistance under the HCV program.

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 accommodation for people with disabilities.

4-I.D. Placement on the Waitlist

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

Authority Policy

If the Authority can determine from the information provided that a family is ineligible, the family will not be placed on the waiting list(s). Where a family is determined to be ineligible, the Authority will send written notification of the ineligibility determination via email or U.S.P.S within 60 calendar days of receiving a complete application or the closing date of the waiting list(s), whichever comes later. 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

Authority Policy

The Authority will send written notification of the placement or non-placement of the application on the waiting list(s) within 60 calendar days of receiving the application or the closing of the waiting list(s), whichever comes later.

Placement on the waiting list(s) 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(s).

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; and
- 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.

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.

Authority Policy

The Authority may merge the HCV waiting list with the Public Housing waiting list and/or PBV/RAD waitlist in the event that the HCV, Public Housing, PBV, or RAD waiting list are exhausted.

Project-Based/RAD Housing Assistance Waiting List(s):

The Authority may establish a single waitlist for all PBV/RAD units or create and manage separate waiting lists for individual projects or buildings that are receiving PBV/RAD/HOPE SF assistance.

In the event that a waiting list does not have a sufficient number of names to support filling vacancies, the Authority may utilize the Public Housing, Housing Choice Voucher, or other Site Based Waitlists to augment the PBV/RAD/HOPE SF waiting lists until such time that the list is replenished/reopened.

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.

Authority Policy

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

The Authority's waiting list(s) will remain open to accept referrals/applications for the following while closed to general public:

- VASH referrals from the Veterans Administration
- San Francisco District Attorney referrals/VAWA Transfers
- Public Housing Emergency Transfers as approved by the CEO or their designee
- Emergency referral provided by the Mayor's Office of Housing and Community Development
- Permanent Supportive Housing/Shelter referrals provided by the Department of Homelessness and Supportive Housing
- Residential Care Facilities for the Chronically Ill (RCFCI)/Plus Housing referrals provided by Mayor's Office of Housing and Community Development
- San Francisco Human Services Agency Resource Family Program referrals provided by the Human Services Agency

- Mixed Families currently residing at the Authority managed HOPE SF sites: Sunnydale, Potrero, or Alice Griffith
- Family Unification Program (FUP) referrals by the Human Services Agency
- Placement of Families that Require Relocation as Part of HOPE SF Revitalization
- Families with minor children living in SROs
- Terminated due to insufficient funding
- Individual/Family on the Public Housing Waitlist
- City Garden Referrals
- Justice Involved
- Site based waitlist for Single Room Occupancy Unit(s)
- Referrals from the Mayor's Office of Housing and Community Development's Site Based Waitlist
- Emergency Housing Voucher Holders

Where the Authority has particular preferences or funding criteria that require a specific category of family, the Authority may elect to continue to accept applications from these applicants while closing the waiting list to others.

Reopening the Waiting List

Authority Policy

The Authority may reopen the waitlist, at any time, in whole or in part, as needed to ensure an adequate pool of applicants and to meet program and operational needs.

When the waitlist for specific unit sizes has been exhausted, the Authority may reopen the waiting list for that particular need. Under these circumstances, the Authority may limit the reopening to applicants seeking the affected unit size and may accept applications during specified dates and times or through a lottery process, as described in this Policy.

Noticing of Waitlist Opening

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.

Authority Policy

The Authority will announce the reopening of the waiting list(s) at least 15 calendar 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 Authority will give public notice by:

- Publishing the relevant information on the Authority website;
- Publishing a notice in The San Francisco Chronicle;
- Publishing a notice in one or more minority-owned and foreign language newspapers;
- Posting in the lobby of the Authority office at 1815 Egbert Avenue, San Francisco, CA.

In addition, the Authority may also provide public notice by doing the following:

- Radio and television stations in order to inform the visually impaired;
- Notices circulated for posting at social service agencies, community centers and the Bay Area public housing agencies;
- Posting at the RAD property and the offices of the agencies managing and providing services for the property.

4-II.D. Family Outreach

[HCV GB, pp. 4-2 to 4-4]

The Authority must conduct outreach as necessary to ensure that the Authority 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 Authority 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].

Authority 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.

Authority 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.

4-II.E. Reporting Changes in Family Circumstances

Authority Policy

While the family is on the waiting list(s), the family must immediately inform the PHA within 15 calendar days of changes in family size or composition, preference status, or contact information, including current residence, mailing address, and phone number. The changes must be submitted in writing to the Authority. The Authority may accept Applicant Portal updates.

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)].

Authority Policy

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

To update the waiting list(s), the Authority will send an update request via U.S.P.S. or e- mail to each family on the waiting list(s) 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 Authority has on record for the family. The update request will indicate the valid format(s) for submitting a response, 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(s) without further notice.

Acceptable formats for responding may include: in writing to the Authority postmarked by

U.S.P.S., via e-mail received by the Authority by the deadline stated on the update request form, or through the Applicant Portal.

If the notice is returned by the post office with no forwarding address, the applicant will be removed from all Authority waiting list(s) 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 calendar days to respond from the date the letter was re-sent. If the family fails to respond within this time frame, the family will be removed from the waiting list(s) without further notice.

The family may request to be reinstated to the waiting list(s) within one year of the withdraw date.

Removal from the Waiting List

Authority Policy

The Authority will remove applicants from the waiting list(s) upon request by the head of household listed on the application. In such cases, no informal review is required.

If at any time an applicant family is on the waiting list, the Authority determines that the family is not eligible for assistance, the family will be removed from the waiting list.

If a family is removed from the waiting list because the Authority has determined the family is not eligible for assistance, a notice will be sent to the family's email address or through U.S.P.S to the family's address of record. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding the Authority's decision *(see Chapter 16)* [24 CFR 982.201(f)].

If the Authority has determined a sole member family is deceased, unless there is a pending waitlist update request, date stamped by the Authority on or before the date of death of the sole family member, the family will be removed from all waiting lists.

If the family does not respond to the second letter for interview within 15 days of receipt, they will be removed from the waitlist they were pulled from.

Withdrawal from PBV/RAD/HOPE SF Waitlists

Authority Policy

If an appointment letter is returned to the Authority with no forwarding address, the family will be removed from the waiting list.

If the applicant is selected from another PBV/RAD/HOPE SF waitlist(s) and the Authority has not received a Waitlist Update Form or other form of notification of a new/alternate address, the applicant will be sent a Notice of Proposed Withdrawal and request to update their contact information within 15 calendar days of the date of the notice. Failure to provide new contact information or respond to the notice will result in the applicant being withdrawn from all waitlists within the same program.

If the applicant responds to the Notice of Proposed Withdrawal within 15 days, the Authority will not remove the applicant from the proposed waitlist(s). The applicant will be on the waitlist for future selection. The family may request to be reinstated to the waitlist within one (1) year of the withdrawal date.

If the Authority has determined a sole member family is deceased, unless there is a pending waitlist update request, date stamped by the Authority on or before the date of death of the sole family member, the family will be removed from all waiting lists.

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 Authority 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 Authority must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the Authority'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]

At its sole discretion, the Authority may offer a HUD-VASH family that the Veterans Affairs Medical Center (VAMC) certifies no longer needs case management services continued Housing Choice Voucher (HCV) assistance through one of its regular Housing Choice Vouchers (HCV) in order to free up the HUD-VASH voucher for another HUD-VASH eligible family. Under limited circumstances and when an HCV voucher is available, families leased up under a FUP family voucher may be transferred to the regular HCV program. FUP families may be transferred to the regular HCV program when there are no longer children in the household (e.g., children who turn 18 years old or are permanently removed from the home).

The Authority may open its waitlist for:

- A victim of sexual violence;
- A senior that has become disabled as a result of the physical and sexual assault;
- Has vacated or will have to vacate their housing as a result of the physical and sexual assault;
- The request is submitted not later than (6) months from the date of the crime;
- The victim is working with a third-party service provider or the City and County of San Francisco to identify housing options; and
- A copy of the police report is provided to the Authority.

In extenuating circumstances, after all of the above conditions have been met, the Authority may, in its sole discretion, determine whether a tenant-based voucher or PBV assistance will be issued.

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.

Regular HCV Funding

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

Project–Based Sites

Project–Based Waiting list(s) will be used to assist families interested in living in units assisted by a Project-Based Voucher (PBV) Housing Assistance Payments Contact. Families are selected in accordance with the policies provided in Section 4.III.C.

4-III.C. Selection Method

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

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

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

Authority Policy

The Authority has adopted local preferences. All preferences must be verified at the time of the eligibility interview. If an applicant is unable to provide verification of their preference at the time of eligibility interview or up to fifteen (15) days thereafter, the applicant will be placed back on the waiting list(s) in a non-preference category. All preferences are mutually exclusive except for the Veteran/Surviving Spouse of Veteran and EHV preferences, which may be combined with any other preference(s). Applicants with an equal preference value will be selected based on the position number. The definitions of all preferences below are located in Exhibit 4-1.

4-III.C.2. Preferences and Order of Selection

The Authority system of preferences will select families based on local preferences according to the date and time of application [24 CFR 982.207(c)].

Families will be selected from the waiting list(s) based on the highest point preference followed by position of applications within the preference category. After all preferences have been exhausted, the Authority will select current applicants based on their date and time of application.

If the Authority 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(s) 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(s) [24 CFR 982.204(d) and (e)].

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

Authority Policy

Families will be required to provide all of the information necessary to establish eligibility of assistance, including verification of preference, if applicable, during a scheduled eligibility interview. Families must verify their preference status and eligibility at the eligibility interview or up to fifteen (15) days thereafter. Families unable to verify their preference status within this time frame will be returned to the waiting list(s) in a non- preference category. Families unable to verify their eligibility within this time frame will be denied admission into the program.

4-III.C.2.a. Housing Choice Voucher Waiting Lists(s)

An applicant may select any or all preferences that apply, and the preference with the highest points will be applied. In addition, any combination of point preferences denoted with + points will be added to the main preference.

The selection based on preferences from the Housing Choice Voucher Waiting list(s) is as follows:

Preferences for the Tenant Based HCV Waitlist:
Veteran/Surviving Spouse of Veteran (+1 point)
Individual/Family on the Public Housing Waitlist (8 points)
Mainstream Voucher Preference (7 points)
Involuntary Displacement (5 points)
Emergency Housing Voucher (EHV) Holder (9 points)

Additional EHV preferences that may be applied:*

The Authority will assign these EHV preferences based on the household's last certification as of their placement on the HCV waitlist:

- EHV holder requires a unit with 5 or more bedrooms (+3 points)
- EHV holder with a minor(s) in the household (+2 points)

- EHV holder with any member of the household with a disability (+2 points)
- EHV holder with a senior (62+) head of household, spouse, or co-head of household (+2 points)

The Authority will assign this EHV preference based on the referral status for the household at admission into the EHV program:

- EHV Holder and Involuntarily Displaced (+3 points)

* If additional tiebreakers are required for the EHV preferences, the Authority will apply (1) earliest EHV admission date and then (2) initial EHV voucher issue date.

4-III.C.2.b. Tenant Based HCV Targeted Funding

Authority Policy

Homeless Veterans Referred by the Department of Veterans Affairs – (VASH): This preference is specific to vouchers or units available at properties assisted by the Veterans Affairs Supportive Housing (HUD-VASH) funding. To qualify for this preference, the family must be referred as a homeless veteran by the Department of Veterans Affairs.

Families Referred by the San Francisco Human Services Agency – (FUP): This preference is specific to vouchers available based on funding received by HUD for the Family Unification Program (FUP). To qualify for this preference, the family must be referred as a qualified family by the San Francisco Human Services Agency.

Families Referred by the San Francisco Human Services Agency – Non-Elderly

Disabled (NED): This preference is specific to vouchers available based on funding received by HUD for Non-Elderly Disabled (NED) families who meet specified medical criteria. To qualify for this preference, the family must be referred by a designated partner agency and determined eligible for referral by the San Francisco Human Services Agency.

Mainstream Voucher Preference: This preference is specific for non-elderly persons with disabilities who are homeless per 24 C.F.R. 576.2 or transitioning out of institutional and other segregated settings or are at serious risk of institutionalization.

Justice Involved: The Justice Involved preference allows up to 50 program tenant-based vouchers to be issued to individuals who were formerly incarcerated or families with a parent who was formerly incarcerated for a period of time that equals one (1) year or more. To qualify for this preference the formerly incarcerated parent must be a member of the household and household members must pass all eligibility requirements for the HCV program, in this Administrative Plan, maintain employment for a minimum of six (6) months and be

referred by the City and County of San Francisco's Department of Adult Probation. For these referrals, the Authority will only deny an applicant based on mandatory HUD denials as listed in section.

4-III.C.2.c. RAD/PBV Site Based Waiting List(s)

Authority Policy

The following represents the selection based on preferences for each RAD PBV site-based waiting list(s). *(See Chapter 18 for details on RAD Applications, Waiting Lists, and the Tenant section for Referral.)*

Where occupancy of PBV/RAD/HOPE SF properties or units has a pre-qualifier, i.e. homeless, seniors, families with persons with disabilities, families needing supportive services, veterans, HOPWA or families needing assisted living, the Authority will not consider an applicant's eligibility without first confirming that the applicant meets the pre-qualifier. A pre-qualifier is a requirement that a family must have in order to qualify for a building. For example, to prequalify for a senior building, you must be a senior. If it is identified after the family has been pulled and referred to a building that they do not qualify for the building, the family's application will immediately halt and they will be placed back on the waitlist in accordance with their date and time of application without a right for informal review.

Where the Authority has determined that there are not enough applicants to fill anticipated vacancies in the RAD/PBV program, in accordance with section 4-II.B. the Authority will: (1) re-open the site-based waiting list for specified bedroom sizes; (2) Create and open a streamlined waiting list for RAD units that will provide referrals for all RAD sites needing referrals and/or (3) Create a single waitlist for both RAD and PBV applicants that will provide referrals for RAD and PBV applicants.

Applicants will be placed on the waiting list(s) by utilizing a random selection lottery process. The Authority will publicly announce the accepting of lottery applications and how many applications will be accepted. During this time, any family asking to be placed on the waiting list for the RAD/PBV program will be given the opportunity to complete a lottery application. Only one lottery ticket/application will be allowed per family and duplicate applications will be discarded. Applicants will also be given the procedure for submitting the lottery applications as well as the deadline for returning them. Applicants will be informed that lottery applications received postmarked after the deadline date will not be included in the lottery. The "drawing" will take place no later than 30 days from the closing of the lottery. The Authority will select the number of lottery applications that were specified in the advertisement from the "drawing." The "drawing" will

be monitored by an individual, organization or agency designated by the Authority.

Applicants whose names were drawn in the lottery will be notified by U.S.P.S. or e-mail informing them of their placement on the waitlist. They will be organized on the waiting list by existing preference category for the RAD/PBV program followed by the date and time the lottery was drawn. Applicants whose names were not drawn will be notified by e-mail that they were not placed on the waitlist for which they intended to be placed through their application.

The Authority may contact applicants on the existing waitlist, and/or all other waiting lists within the PBV program, including the streamlined list to request additional information to best match the applicant with an available unit. The Authority may conduct a final sort based on responses received to the questions asked for the following reasons: bedroom size of unit; income qualified based on income reported most recently, geographic/building location; and/or disability accommodations.

Every reasonable action will be taken by the Authority to assure that applicants can make informed choices regarding the development(s) in which they wish to reside. The Authority will disclose information to applicants regarding the location of available sites. The Authority will also include basic information relative to amenities such as daycare, security, transportation, training programs, and an estimate of the period of time that the applicant will likely have to wait to be admitted to units of different types.

The Authority will make a maximum of three (3) unit offers from the waitlist they are on. The initial unit offer may be refused without good cause. A second- and third-unit refusal will require good cause as defined in Chapter 3. A Notice of Proposed PBV/RAD Waitlist Withdrawal will be sent to the applicant advising of a final unit offer remaining when the third offer is made and the risk of withdrawal.

The Authority will utilize the Coordinated Entry System via referral from the Department of Homelessness and Supportive Housing (DHSH) for (1) Units converted from the Moderate Rehabilitation Program to the Rental Assistance Demonstration Program and units formerly subsidized by the local operating Subsidy Program (LOSP) that are now under the Project Based Voucher (PBV) program.

Local Rental Assistance Demonstration (RAD) Program Site-Based Preferences:

An applicant may select any or all preferences that apply, and the preference with the highest points will be applied. In addition, any combination of point preferences denoted with + points will be added to the main preference.

Veteran/Surviving Spouse of Veteran (+1 point)
Public Housing Emergency Transfers (16 points)
Emergency Referral (15 points)
Residents of Residential Care Facilities for the Chronically Ill (RCFCI)/ Transitional Residential Care Facilities (TRCF) (14 points)
Mixed Families currently residing at non-RAD units at HOPE SF sites (13 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Department of Homeless and Supportive Housing Referral (HSH) (7 points)
Families with minor children living in SROs with a referral from DBI (7 points)
Involuntarily Displaced from San Francisco residence (5 points)

Emergency Housing Voucher Holders (16 points)

Additional EHV preferences that may be applied:*

The Authority will assign these EHV preferences based on the household's last certification as of their placement on the RAD waitlist:

- EHV holder requires a unit with 5 or more bedrooms (+3 points)
- EHV holder with a minor(s) in the household (+2 points)
- EHV holder with any member of the household with a disability (+2 points)
- EHV holder with a senior (62+) head of household, spouse, or co-head of household (+2 points

The Authority will assign this EHV preference based on the referral status for the household at admission into the EHV program:

- EHV Holder and Involuntarily Displaced (+3 points)

*If additional tiebreakers are required for the EHV preferences, the Authority will apply (1) earliest EHV admission date and then (2) initial EHV voucher issue date.

4-III.C.2.d. PBV Site Based Waiting List(s)

Authority Policy

Where occupancy of PBV/RAD/HOPE SF properties or units has a pre-qualifier, i.e. homeless, seniors, families with persons with disabilities, families needing supportive services, veterans, HOPWA or families needing assisted living, the Authority will not consider an applicant's eligibility without first confirming that the applicant meets the pre-qualifier. A pre-qualifier is a requirement that a family must have in order to qualify for a building. For example, to prequalify for a senior building, you must be a senior. If it is identified after the family has been pulled and referred to a building that they do not qualify for the building, the family's application will immediately halt and they will be placed back on the waitlist in accordance with their date and time of application without a right for informal review.

Families will be selected from site-based waiting list(s) based on the

highest point preference allowed for that property followed by position of applications within the preference category. After all preferences have been exhausted, the Authority will select current applicants based on their date and time of application.

Where the Authority has determined that there are not enough applicants to fill anticipated vacancies in the RAD/PBV program, in accordance with section 4-II.B. The Authority will: (1) re-open the site based the waiting list for specified bedroom sizes; (2) Create and open a streamlined waiting list for PBV units that will provide referrals for all RAD sites needing referrals and/or (3) Care a single waitlist for both RAD and PBV applicants that will provide referrals for RAD and PBV applicants.

Applicants will be placed on the waiting list by utilizing a random selection lottery process. The Authority will publicly announce the accepting of lottery applications and how many applications will be accepted. During this time, any family asking to be placed on the waiting list for the PBV program will be given the opportunity to complete a lottery application. Only one lottery ticket/application will be allowed per family and duplicate applications will be discarded. Applicants will also be given the procedure for submitting the lottery applications as well as the deadline for returning them. Applicants will be informed that lottery applications received postmarked after the deadline date will not be included in the lottery. The "drawing" will take place no later than 30 days from the closing of the lottery. The Authority will select the number of lottery applications that were specified in the advertisement from the "drawing." The "drawing" will be monitored by an individual, organization or agency designated by the Authority.

Applicants whose names were drawn in the lottery will be notified by U.S.P.S. or e-mail informing them of their placement on the waitlist. They will be organized on the waiting list by existing preference category for the PBV program followed by the date and time the lottery was drawn. Applicants whose names were not drawn will be notified by e-mail that they were not placed on the waitlist for which they intended to be placed through their application.

The Authority will make a maximum of three (3) unit offers. The initial unit offer may be refused without good cause. A second and third refusal will require good cause as defined in Chapter 3. A Notice of Proposed PBV Waitlist Withdrawal will be sent to the applicant advising of a final unit offer remaining and the risk of withdrawal.

The Authority will utilize the Coordinated Entry System via referral from the Department of Homelessness and Supportive Housing (DHSH) for (1) Units converted from the Moderate Rehabilitation

Program to the Rental Assistance Demonstration Program and (3) units formerly subsidized by the local operating Subsidy Program (LOSP) that are now under the Project Based Voucher (PBV) program and for HOPWA units, the Authority will fill units from the Plus Housing list as referred by the Mayor's Office of Housing and Community Development (MOHCD) or DHSH Coordinated Entry System. If no referrals are provided within 30 calendar days, the Authority will refer from its wait list.

An applicant may select any or all preferences that apply, and the preference with the highest points will be applied. In addition, any combination of point preferences denoted with + points will be added to the main preference.

The PBV preferences are listed below:

Project Based Voucher Site-Based Preferences:
Veteran/Surviving Spouse of Veteran (+1 point)
Emergency Referral (12 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Involuntarily Displaced from San Francisco Residence (5 points)
Public Housing Emergency Transfers (12 points)
Emergency Housing Voucher Holder (13 points)

Additional EHV preferences that may be applied:*
The Authority will assign these EHV preferences based on the household's last certification as of their placement on the PBV waitlist:

- EHV holder requires a unit with 5 or more bedrooms (+3 points)
- EHV holder with a minor(s) in the household (+2 points)
- EHV holder with any member of the household with a disability (+2 points)
- EHV holder with a senior (62+) head of household, spouse, or co-head of household (+2 points)

The Authority will assign this EHV preference based on the referral status for the household at admission into the EHV program:

- EHV Holder and Involuntarily Displaced (+3 points)

*If additional tiebreakers are required for the EHV preferences, the Authority will apply (1) earliest EHV admission date and (2) initial EHV voucher issue date.

Dr. George W. Davis-Elderly 97 units Site-Based Preferences:
Veteran/Surviving Spouse (+1 point)
Elderly aged 62+ Residents (First Right of Return) of Alice Griffith (16 points)
Involuntarily Displaced from Hunters Point with Residential Certificate of Preference (COP) (11 points)
Involuntarily Displaced from Western Addition with Residential Certificate of Preference (COP) (11 points)
Rent Burdened or Assisted Housing Residents (8 points)

Involuntarily Displaced (5 points)

Dr. George W. Davis-Elderly/DPH 23 units Site-Based Preferences:
Veteran/Surviving Spouse (+1 point)
Homeless Families Referred by the Department of Homelessness and Supportive Housing (DHSH) (15 points)
Involuntarily Displaced from Bayview with Residential Certificate of Preference (COP) (14 points)
Involuntarily Displaced from Western Addition with Residential Certificate of Preference (COP) (13 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (12 points)
Rent Burdened or Assisted Housing Residents (8 points)
Involuntarily Displaced (5 points)

In accordance with the rules associated with the opening and closing of waitlists outlined above, the Authority will open the waitlist for the Dr. Davis Center for a total of up to 30 applicants with a COP preference issued by the Mayor's Office of Housing and Community Development.

City Gardens:
Veteran/Surviving Spouse (+1 point)
Families with minor children referred by the Authority to the San Francisco DHSH (15 points)
Families with minor children referred to the Authority by DHSH after matches between the Authority and DHSH is exhausted (13 points)

DHSH will provide referrals for City Garden PBV units through Coordinated Entry. If no referrals are provided within 30 calendar days, the Authority will refer from its waitlist.

All HOPE SF Sites-On/Off Site:

Emergency Referral (14 points) to:
Bernal Dwellings
Hayes Valley North and South
Valencia Gardens

Hunters View (HOPE SF) Site-Based Preferences:
Veteran/Surviving Spouse (+1 point)
Families with a Right-to-Return (17 points)
HOPE SF Construction (16 points)
Families with a Right-to-Return [Expanded] preference (15 points)
Emergency Referral (14 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points)

Alice Griffith (HOPE SF) Site-Based Preferences:
Veteran/Surviving Spouse (+1 point)

Families with a Right-to-Return (17 points)
HOPE SF Construction (16 points)
Families with a Right-to-Return [Expanded] preference (15 points)
Emergency Referral (14 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points)

Potrero, Potrero Annex, Block X, Block B (HOPE SF) Site-Based Preferences:
Veteran/Surviving Spouse (+1 point)
Families with a Right-to-Return (17 points)
HOPE SF Construction (16 points)
Families with a Right-to-Return [Expanded] preference (15 points)
Emergency Referral (14 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points)

Sunnydale, Block 3A and Block 3B (HOPE SF) Site-Based Preferences:
Veteran/Surviving Spouse (+1 point)
Families with a Right-to-Return (17 points)
HOPE SF Construction (16 points)
Families with a Right-to-Return [Expanded] preference (15 points)
Emergency Referral (14 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points)

Sunnydale, Block 7 (HOPE SF) Site-Based Preferences:
Veteran/Surviving Spouse (+1 point)
Families with a Right-to-Return (17 points)
HOPE SF Construction (16 points)
Families with a Right-to-Return [Expanded] preference (15 points)
Emergency Referral (14 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points)

Sunnydale, Block 9 (HOPE SF) Site-Based Preferences:
Veteran/Surviving Spouse (+1 point)
Families with a Right-to-Return (17 points)
HOPE SF Construction (16 points)
Families with a Right-to-Return [Expanded] preference (15 points)
Emergency Referral (14 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points)

Casala (Sunnydale, Block Q) (HOPE SF) Site-Based Preferences:
Veteran/Surviving Spouse (+1 point)
Families with a Right-to-Return (17 points)
HOPE SF Construction (16 points)
Families with a Right-to-Return [Expanded] preference (15 points)
Emergency Referral (14 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points)

Natalie Gubb Commons (Transbay 7) Site -Based Preferences:
Veteran/Surviving Spouse (+1 point)
Families (First Right-to-Return) of Sunnydale (17 points)
HOPE SF Construction (16 points)
Emergency Referral (14 points)
Involuntarily Displaced from Hunters Point with Residential Certificate of Preference (11 points)

Involuntarily Displaced from Western Addition with Residential Certificate of Preference (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points)

290 Malosi (Sunnydale, Block 6 (HOPE SF) Site-Based Preferences:
Veteran/Surviving Spouse (+1 point)
Families with a Right-to-Return to Sunnydale (17 points)
HOPE SF Construction (16 points)
Families with a Right-to-Return [Expanded] preference (15 points)
Emergency Referral (14 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points)

88 Broadway Site-Based Preferences:
Veteran/Surviving Spouse (+1 point)
Families with a Right-to-Return of Potrero Terrace & Annex (17 points)
HOPE SF Construction (16 points)
Emergency Referral (14 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points)

2828 16th Street (Formerly 1990 Folsom):
Veteran/Surviving Spouse (+1 point)
Families with a Right-to-Return of Potrero Terrace & Annex (17 points)
HOPE SF Construction (16 points)
Emergency Referral (14 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points)

490 South Van Ness Site-Based Preferences:
Veteran/Surviving Spouse (+1 point)
Families with a Right-to-Return of Potrero Terrace & Annex (17 points)
HOPE SF Construction (16 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points)
Emergency Referral (14 points)

555 Larkin (Formerly 500 Turk) Site-Based Preferences:
Veteran/Surviving Spouse (+1 point)
Families with a Right-to-Return of Potrero Terrace & Annex (17 points)
HOPE SF Construction (16 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points)
Emergency Referral (14 points)

Mission Bay South 6 West Site (691 China Basin)-Based Preferences:
Veteran/Surviving Spouse (+1 point)
Families with a Right-to-Return of Sunnydale (17 points) HOPE
SF Construction (16 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points)
Emergency Referral (14 points)

Sister Lillian Murphy Community (formerly 691 China Basin and Mission Bay South 6 West Side):
Veteran/Surviving Spouse (+1 point)
Families with a Right-to-Return of Sunnydale (17 points) HOPE SF Construction (16 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points) Emergency Referral (14 points)

Kapuso (formerly Balboa Upper Yard):
Veteran/Surviving Spouse (+1 point)
Families with a Right-to-Return of Potrero Terrace & Annex (17 points) HOPE SF

Construction (16 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points) Emergency Referral (14 points)

4840 Mission Street:
Veteran/Surviving Spouse (+1 point)
Families with a Right-to-Return of Potrero Terrace & Annex (17 points) HOPE SF Construction (16 points)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points) Emergency Referral (14 points)

921 Howard-Preferences:
Veteran/Surviving Spouse (+1 point)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points)

730 Stanyan-Preferences:
Veteran/Surviving Spouse (+1 point)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with minor children living in an SRO (7 points)
Involuntarily Displaced from San Francisco Residence (5 points) Emergency Referral (14 points)

HPSY Block 56
Veteran/Surviving Spouse (+1 point)
Involuntarily Displaced with Residential Certificate of Preference (COP) (11 points)
Families with a Right-to-Return to Sunnydale (10 points)
Involuntarily Displaced from San Francisco Residence (5 points) Emergency Referral (14 points)

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)].

4-III.C.2.e. Single Room Occupancy Site Based Waiting List

Authority Policy

The utilization rate should be 95% or greater at all times.

The Authority will accept direct referrals from Owners/Managers of SRO buildings. The Owners/Managers of the SRO buildings must provide their marketing plan for non-HSH (regulated) funded units, which demonstrates an affirmative fair housing approach, to the Authority in advance of making any direct referrals from Owner/Manager and annually thereafter. Owners/Managers must provide updated/modified tenant selection plans to the Authority within 30 calendar days of the modification with the changes expressly provided in a written notification. The Authority retains full discretion to pause or stop Owner/Manager referrals at any time. Failure to receive referrals from Owners/Managers within 30 days of a request for referrals will result in the Authority requesting referrals from the Coordinated Entry Program to prevent delays in filling units.

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)].

Authority Policy

The Authority will notify the family by U.S.P.S. mail or e-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.
- Documents that must be provided at the interview to document eligibility for a preference, if applicable. Families who reported a preference must verify the preference. Verification methods include verification of family status from homeless service agencies and verification of family status from non-profit agencies.

If the appointment notice is returned by the post office with no forwarding address, the applicant will be withdrawn from the waitlist for which the notice was sent. A notice of withdrawal (see Chapter 3) will be sent to the family's address of record, as well as to any known alternate address. The family may request an informal review resulting from the removal of the waiting list(s). 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 may request to be reinstated to the waiting list(s) within one year of the withdraw date.

4-III.E. The Application Interview

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination though 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 2012-10].

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

Authority Policy

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

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference at the time of the interview. If the Authority determines the family is not eligible for the preference the family will be placed back on the waiting list according to their updated preference ranking.

If the family does not have verification of preference at the time of the interview, the verification will be required within 15 calendar days from the date of the interview.

The head of household must attend the interview and briefing. All adult household members must attend the interview. The Authority, at its discretion, may require adult household members to attend the briefing.

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

Household members not previously declared on the application, may be added in accordance with section 3-I.B. of this Administrative Plan.

Verification of information pertaining to adult members will not begin

until all release forms are submitted to the Authority.

The head of household and all adult members must provide appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation at the time of the interview, they will be required to provide it within 15 calendar days.

Pending disclosure and documentation of social security numbers, the Authority will allow the family to retain its place on the waiting list(s) for 90 days. If not all household members have disclosed their SSNs at the next time the Authority is issuing vouchers, the Authority will issue a voucher to the next eligible applicant family on the waiting list(s).

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, as well as completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, the Authority 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 15 calendar 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 a 15 calendar day 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 Authority will provide translation services in accordance with the Authority's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact the Authority in advance of the interview to schedule a new appointment. The Authority will send a second letter for interview if a family fails to attend or reschedule the first interview; however, if the family does not respond to the second letter for interview within 15 calendar days, they will be removed from the waitlist they were pulled from. A family removed from a waitlist may seek to be placed back on the list within one year of removal. Reinstatement on the waitlist will be subject to Authority discretion.

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.

Authority Policy

If the Authority determines that the family is ineligible, the Authority will send written notification of the ineligibility determination within 15 calendar 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(s) (e.g. targeted funding, extremely low-income), the family will be returned to its original position on the waiting list(s) ('original' for purposes of the waiting list(s) is defined as the place the participant would have been had s/he not had any preferences or advantages at the time of eligibility determination). The Authority will notify the family in writing that it has been returned to the waiting list(s) and will specify the reasons for it.

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

EXHIBIT 4-1: DEFINITIONS OF PREFERENCES IN ALPHABETICAL ORDER:

Displaced Tenant Housing Preference: In 2013, the Ellis Act Displacement Emergency Assistance Ordinance created a new preference in all City funded affordable housing programs for tenants who are displaced by an Ellis Act eviction. In 2015, the Board of Supervisors expanded the program to include tenants displaced by Owner Move In (OMI) evictions. In 2016, the program expanded further to include tenants displaced by fire. The Mayor's Office of Housing and Community Development's Displaced Tenant Housing Preference (DTHP) Program implements this legislation.

District Attorney Referrals (Witness Relocation Preference): Subject to availability of funding, up to 20 vouchers will be set-aside for issuance to participants in the Witness Relocation and Protection (WRAP) Program. The Authority in cooperation with the San Francisco District Attorney's Office (DA) and the San Francisco Police Department (SFPD) has established a set-aside in the Housing Choice Voucher Program to assist witnesses of violent crimes who are being assisted by the Witness Relocation and Assistance Program (WRAP) in exchange for testimony leading to the conviction of the violent criminal(s) arrested in connection with the witnessed crime.

Strict guidelines must be met to ensure continued assistance for WRAP participants. In order for WRAP families to be eligible for assistance, the following conditions must be met: (1) The witness MUST testify in all trials held for the alleged crime. Eligibility for the WRAP must be initiated by the SFDA's Office who must present credible evidence, of the danger or of retaliatory violence to the family, to the Authority; (2) All family members MUST NOT violate any conditions or responsibilities of the WRAP; (3) All household members MUST agree to move out of the City and County of San Francisco; (4) The Relocating family must be in good standing with the Authority and not owe any balance for rent or unpaid tenant damages within the last three years per Authority records or as indicated in the HUD EIV Debts Owed module; (5) All family members MUST NOT return to the City and County of San Francisco while assisted under the Voucher Program as a participant of the WRAP unless required by the SFDA's office or the SFPD; (6) The family MUST cooperate with all requirements of the Section 8 Program and the―receiving housing authority's policies and procedures; and (7) If the family reveals the location of its new unit or their status in the California WRAP, the Voucher, at the discretion of the initial or the receiving Public Housing Agency (―PHA) may be forfeited. Circumstances will be reviewed on a case-by-case basis (Refer to Exhibit 4-2 for VAWA definition).

Emergency Housing Voucher Holder: Subject to availability, households with an active Emergency Housing Voucher and in good standing as of October 1, 2026 who will be impacted by budget underfunding may retain the Emergency Housing Voucher preference. This preference shall be applied towards Project Based Voucher opportunities and/or Tenant Based Vouchers, if available.

Emergency Referral: A household residing in a RAD, HOPE VI, HOPE SF, or PBV unit may initially request to be transferred from one unit to another directly with the developer/manager. To qualify for this preference, a family must be referred by the Mayor's Office of Housing and Community Development (MOHCD) or the Authority's CEO or their designee as a current household residing in a RAD, HOPE VI, HOPE SF, or PBV unit in a qualifying emergency situation as defined below:

- ***Personal Safety Emergency:*** A RAD, HOPE VI, or HOPE SF PBV participant and/or household member is a target of any physical harassment and/or extreme or repeated

verbal harassment, intimidation, or coercion, which places the household member(s) in imminent danger; A RAD, HOPE VI, or HOPE SF PBV participant and/or household member is a participant in a witness protection program; or A RAD, HOPE VI, or HOPE SF PBV participant and/or household member is or has been a survivor of domestic violence, dating violence, sexual assault, stalking, human trafficking, or elder/dependent adult abuse and reasonably believes there is a threat of imminent danger if not relocated.

- ***Uninhabitable Conditions:*** The RAD participant's unit, building, or RAD property pose an immediate, verifiable threat to the life, health, or safety of the tenant or family members and cannot be remedied by internal transfer or temporary relocation of the tenant. Examples include: Destruction by fire or other disaster including, but not limited to, a flood, earthquake, or other natural or man-made disaster; or the existence of a major maintenance or defect problem that constitutes a serious danger to health and safety.
- ***Reasonable Accommodation*****:** (1) A RAD, HOPE VI, or HOPE SF PBV participant has a verifiable medical condition that requires an accommodation that cannot be reasonably provided in their existing development.

Families with a Right-of-Return: Families temporarily relocated by the Authority due to RAD or HOPE SF or exercising their right-to-return to their property and have the highest priority and preference over any family on the site-based waiting list(s) [Board Resolution #5390].

Families with a Right-to Return [Expanded]: After Families with a Right of Return have exercised their right to return to their property, Families with a Right-to-Return [Expanded] have the next highest priority and preference over any family on the site-based waiting list(s). Families with a Right-to-Return [Expanded] formerly lived at the specific HOPE SF site to which they are applying and can document their former residency, as qualified and referred by the Mayor's Office of Housing and Community Development [SF Administrative Code section 39.2].

Families with minor children living in a Single Room Occupancy Unit referred by the Department of Building Inspection: Families with minor children living in a Single Room Occupancy Unit referred by the Department of Building Inspection is a preference listed in all four HOPE SF site- based waiting lists.

Families Referred by the San Francisco Human Services Agency – (FUP): Families who have been separated and cannot be united because of housing barriers will also receive a preference. This preference is specific to vouchers available based on funding received by HUD for the Family Unification Program (FUP) or subject to tenant-based voucher availability. To qualify for this preference, the family must be referred as a qualified family by the San Francisco Human Services Agency.

Families with minor children referred by the Authority to the San Francisco Department of Homelessness and Supportive Services (DHSH): The Authority and DHSH will fill the HOMEKEY PBV units at "City Gardens" in accordance with the DHSH current plan for buildings with apartments with multiple bedrooms, which prioritizes families with minor children under 18 years old who are currently homeless in shelters, sleeping in cars or places not meant for human habitation. DHSH will refer clients to fill units at City Gardens with applications from the Coordinated Entry system. If no referrals have been provided within 30 calendar days the Authority will provide referrals from its waitlist(s) until the PBV units are fully occupied.

HOPE SF Construction-Placement of Families that Require Relocation as Part of HOPE SF

Construction: The Authority will offer a preference to any eligible household in good standing that voluntarily chooses permanent relocation to a Replacement Unit as defined by Chapter 39 of the City of San Francisco Administrative Code, at another HOPE SF property where the household does not presently reside. The HOPE SF properties are Hunters View, Alice Griffith, Potrero and Potrero Annex, Sunnydale and Velasco or new construction projects with HOPE SF approved services. The household family must be legally living at a HOPE SF Project in Good Standing *(see definition in Chapter 3)* and their unit must be scheduled for demolition and/or construction.

Involuntarily Displaced with Residential Certificate of Preference (COP): Certificate of Preference ("COP" or "Certificate") is a document issued by the former San Francisco Redevelopment Agency (Agency), now the Office of Community Investment and Infrastructure (OCII) to displaced residents and businesses in the 1960s, when the Agency was implementing its federally funded urban renewal program. MOHCD now administers this program. This COP gives households preferential consideration for MOHCD-funded housing developments and former Agency funded housing developments. COPs were issued to households that were displaced by the Agency activity in the 1960's and early 1970's, specifically in the Western Addition and in Hunters Point. In 2021, AB-1584 extended this preference to descendants of displaced individuals. MOHCD also issues this Certificate to COP **direct** descendants. This is distinct from the other preferences listed above within this section. **COPs are referrals from MOHCD**.

Involuntary Displacement: An applicant is or will be considered involuntarily displaced if the applicant has vacated or will have to vacate his or her housing unit as a result of one or more of the following actions: (1) *Natural Disaster*: A disaster such as a fire, flood or earthquake that resulted in the inhabitability of the applicant's unit; (2) *Domestic Violence, Dating Violence,* Sexual Assault and/or Stalking: An applicant who has vacated due to actual or threatened domestic violence, dating violence, sexual assault or stalking directed against the applicant or one or more members of the applicant's family by a spouse or other household member, who lives in housing with an individual who engages in such violence; (3) *Victim of Hate Crime/Violent Crime*: Actual or threatened physical violence or intimidation directed against an applicant and his/her property that is based on the person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, that is documented by law enforcement agency stating that the applicant is in an immediate life-threatening situation and that an immediate transfer would minimize the problem; (4) *Government Action*: An action of a government agency related to code enforcement or public improvement or development; (5) Landlord Action: An action by a housing owner that results in an applicant's having to vacate his or her unit, where the reason for the owner's action was beyond the applicant's ability to control or prevent, and despite the applicant having met all previously imposed conditions of occupancy, and the action is other than a rent increase.

Justice Involved: The Justice Involved preference allows up to 50 program tenant-based vouchers to be issued to individuals who were formerly incarcerated or families with a parent who was formerly incarcerated for a period of time that equals one (1) year or more. To qualify for this preference the formerly incarcerated parent must be a member of the household and household members must pass all the same eligibility requirements for the HCV program, in this Administrative Plan, maintain employment for a minimum of six (6) months, and be referred by the City and County of San Francisco's Department of Adult Probation.

Mainstream Voucher Preference: This preference is specific for non-elderly persons with disabilities who are homeless per 24 C.F.R. 576.2 or transitioning out of institutional and other segregated settings or are at serious risk of institutionalization.

Mixed Family: A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. A mixed family who currently resides in Sunnydale, Potrero or Alice Griffith may accept a unit at a RAD site dependent on availability.

Placement of Families that Require Relocation as Part of RAD Construction: The Authority will offer a preference to any family that must be relocated due to construction of any RAD property. The family must be living in a RAD Placement Project and their unit must be scheduled for rehabilitation and/or construction.

Public Housing Emergency Transfer: This preference is specific and limited to families residing in public housing that are living under the circumstances as set forth in 12-11.A- Emergency Transfers of the Authority's Admissions and Continued Occupancy Policy (ACOP) that have been placed on the public housing emergency transfer list.

Referrals from the Mayor's Office of Housing and Community Development. The Authority will accept applicants referred by the Mayor's Office of Housing and Community Development's (MOHCD) Site Based Waitlist for initial lease up of the 600 7th St. and Hunters Point Shipyard Block 56 properties. MOHCD does not review income and asset eligibility. Should an applicant from MOHCD's waitlist not be received by the Authority within 30 calendar days, the Authority will provide referrals to the buildings from its streamlined PBV waitlist.

Rent Burdened: Households paying more than 50% of their income in rent.

Veteran/Surviving Spouse of Veteran: California Health and Safety Code section 34322.2(b) states that "priority shall be given with each preference category to families of veterans and servicemen." A veteran is someone who is recognized by a local, state or federal government agency as a veteran, and they receive or qualify for veteran's benefits. Therefore, veterans and families of veterans shall receive one (1) additional preference within each of the Authority's preference categories.

EXHIBIT 4-2: PROJECT BASED VOUCHER (PVB) & RENTAL ASSISTANCE DEMONSTRATION (RAD) BUILDINGS

Project Name	Street Number	Street Name	Preferences/Pre-qualifiers Building level)	Any other pre-qualifiers (Unit level) (Homeless? HOPWA? Minor Children? Etc.)	Referring Entity
600 Seventh	600	7th Street	MOHCD: City Preference for COP, Displaced Housing Preference, Live/work preference under Chapter 47 Admin Code applies to DAHLIA lottery units	NONE	MOHCD: Allow MOHCD to refer to the Authority; after 30 calendar days of no referrals the Authority will refer from Authority waitlists.
HPSY Block 56	275	Coleman Street	NONE	NONE	MOHCD: Allow MOHCD to refer to the Authority; after 30 calendar days of no referrals the Authority will refer from Authority waitlists.
HPSY Block 52	351	Friedell Street	NONE	NONE	The Authority will refer through the streamlined PBV waitlist.
HPSY Block 54	151	Friedell Street	NONE	NONE	The Authority will refer through the streamlined PBV waitlist.
1036 Mission	1036	Mission	NONE	NONE	DHSH/SFHA: If LOSP Overlay with PBV unit allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
1100 Ocean	1100	Ocean	NONE	Potential LOSP and Transitional Aged Youth (TAY) experiencing homelessness overlay	DHSH/SFHA: If LOSP or TAY Overlay with PBV unit allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
111 Jones	111	Jones	NONE	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
1180 Fourth Street	1180	Fourth	NONE	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay

455 Fell	455	Fell	NONE	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
735 Davis Street	735	Davis	Seniors 62+	Potential LOSP Overlay	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay

95 Laguna Senior	95	Laguna	Seniors 62+	Potential HOPWA Overlay	MOHCD/SFHA: If HOPWA overlay with PBV unit allow MOHCD to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
Casa Adelante: 1296 Shotwell	1296	Shotwell	Seniors 62+	NONE	SFHA
Casa Adelante: 2060 Folsom	2060	Folsom	NONE .	HCD occupancy standards for bedrooms sizes 3+ (minimum 4-person household composition)	SFHA
Casa Adelante: 681 Florida (2070 Bryant)	681	Florida	NONE	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay

Coleridge Park Homes (190 Coleridge)	190	Coleridge	Seniors 62+	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay

Del Carlo Court (3330 Cesar Chavez)	3330	Cesar Chavez	NONE	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
Derek Silva Community (20 Franklin)	20	Franklin	MOHCD: HOPWA	Potential HOPWA overlay	MOHCD: Referral through MOHCD
Dunleavy Plaza (36 Hoff)	36	Hoff	NONE	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
Eddy & Taylor Family Housing (222 Taylor)	222	Taylor	NONE	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
El Dorado Hotel (150 9th)	150	9th	NONE	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists SFHA: If no overlay
Good Samaritan Apartments (1290-1294 Potrero)	1290-1294	Potrero	NONE	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists SFHA: If no overlay
John Burton Advocates for Youth Housing Complex (800 Presidio)	800	Presidio	NONE	Potential LOSP units serve TAY experiencing homelessness overlay	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay

Juan Pifarre Plaza (3101 21st)	3101	21st	NON E	Potential HOPWA overlay	MOHCD/SFHA: If LOSP overlay with PBV units allow MOHCD to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
La Fenix (1950 Mission)	1950	Mission	NONE	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
1303 Larkin Street	1303	Larkin	Seniors 62+	NONE	SFHA
Mercy Family Plaza (1509 Hayes)	1509	Hayes	NONE	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
Mosaica Family Apartments (680 Florida)	680	Florida	NONE	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
Mosaica Senior Apartments (655 Alabama)	655	Alabama	NONE	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
Rich Sorro Commons (150 Berry)	150	Berry	NONE	Potential HOPWA Overlay	MOHCD/SFHA: If LOSP overlay with PBV units allow MOHCD to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay

The Coronet (3595 Geary)	3595	Geary	Senior 55+ or older and all other household members must be 45+.	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
The Dudley Apartments (172-180 6th)	172-180	6th	NONE	Potential HOPWA overlay	MOHCD/SFHA: If LOSP overlay with PBV units allow MOHCD to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
The Openhouse Community at 55 Laguna (Richardson Hall)	55	Laguna	NONE	NONE	DHSH/SFHA: If LOSP overlay with PBV units allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
1411-1413 Flounder Street	1411-1413	Flounder	NONE	Potential HOPWA overlay	MOHCD: Confer with sponsor
1652 Eddy Street	1652	Eddy	NONE	NONE	MOHCD: MOHCD refers for HOPWA units, no overlap with PBV preferred. If any overlap with homeless designation or PBV, please coordinate with MOHCD to ensure HOPWA requirements met.
421 Turk Street Apartments	421	Turk	NONE	NONE	MOHCD: Confer with sponsor
555 Larkin	555	Larkin	NONE	NONE	SFHA
Bayanihan House	88	6th	NONE	NONE	SFHA
Bayview Commons	4445	3rd	NONE	NONE	SFHA
Bernal Gateway	3101	Mission	NONE	NONE	SFHA
Broadway Family Apartments	150	Broadway	NONE	NONE	SFHA
Cameo Apartments	481	Eddy	NONE	NONE	SFHA
Canon Barcus Apartments	670	Natoma	NONE	NONE	SFHA
Carter Terrace	530	Carter	NONE	NONE	SFHA

Curran House	45	Taylor	NONE	NONE	SFHA
Dalt Hotel	34	Turk	NONE	NONE	SRO-Owner Referral
Golden Gate Apartments	1820	Post	NONE	NONE	SFHA
HOPE SF 490 Van Ness	490	South Van Ness	NONE	NONE	SFHA
HOPE SF 555 Larkin	555	Larkin	NONE	NONE	SFHA
HOPE SF 691 China Basin	691	China Basin	NONE	NONE	SFHA
Klimm Apartments	460	Ellis	NONE	NONE	SFHA
Leland-Polk Senior Community	1315	Polk	NONE	NONE	SFHA
Mission Creek Senior Community	225	Berry	Senior 62+	Seniors age 62+	SFHA
Nihomachi Terrace	1615	Sutter	NONE	NONE	SFHA
North Beach Place Apartments	455	Bay	NONE	NONE	SFHA
One Church Street	1	Church	NONE	NONE	SFHA
Plaza Ramona Apartments	250	McAllister	NONE	NONE	SFHA
Potrero Acceleration					
Rubicon Villages					
Sierra Madre Apartments	421	Leavenworth	NONE	NONE	SFHA
Silvercrest					
SOMA Family	1166	Howard	NONE	NONE	SFHA
Sunnydale Acceleration					

Tanforan Cottages					
West Hotel	141	Eddy	NONE	NONE	SRO-Owner Referral
Westbrook Plaza	227-255	7th	NONE	NONE	SFHA
Yosemite Apartments	480	Eddy	NONE	NONE	SFHA
1029 Girard	1029	Girard	NONE	NONE	SFHA
1030 Girard	1030	Girard	NONE	NONE	SFHA
321 Turk			NONE	NONE	SFHA
990 Polk	990	Polk	NONE	NONE	DHSH/SFHA: If LOSP Overlay with PBV unit allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
Aarti Hotel	391	Leavenworth	NONE	NONE	DHSH/SFHA: If TAY Overlay with PBV unit allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
Altamont	3048	16th	NONE	NONE	SFHA
Ambassador Hotel	55	Mason	NONE	NONE	SRO-Owner Referral
Apollo Hotel	420	Valencia	NONE	NONE	SFHA
Arlington Residence	472	Ellis	NONE	NONE	SFHA
Bayview Hill Gardens	1075	Le Conte	NONE	NONE	SFHA
Bishop Swing Community House	275	10th	NONE	NONE	SFHA
Cambridge	473	Ellis	Adult MOHCD: City preference for COP, Displaced Housing Preference, Live/Work Preference under Chapter	Individual Homeless; some units require documented mental illness MOHCD: none	DHSH Coordinated Entry; no referral within 30 calendar days results in SFHA referral

			47 Admin Code applies to DAHLIA lottery units		
Canon Barcus Community House	670	Natoma	Family MOHCD: City preference for COP, Displaced Housing Preference, Live/Work Preference under Chapter 47 Admin Code applies not DAHLIA lottery units.	Family with children Chronic homelessness; some units require documented disability MOHCD: 5 HOPWA units	DHSH Coordinated Entry; no referral within 30 calendar days results in SFHA referral MOHCD: MOHCD refers for HOPWA units. Check with sponsor if any overlap with homeless designation or PBV. If any, please coordinate with MOHCD to ensure HOPWA requirements met.
City Gardens			Family MOHCD: none	Family with children Homeless MOHCD: none	DHSH Coordinated Entry; no referral within 30 calendar days results in SFHA referral
Dr. Davis Senior Community	1751	Carroll	62+ MOHCD: City preference for COP, Displaced Housing Preference, Live/Work Preference under Chapter 47 Admin Code applies to DAHLIA lottery units.	Seniors 62+ Homeless MOHCD: Seniors?	DHSH Coordinated Entry; no referral within 30 calendar days results in SFHA referral
Dudley Apartments	172-180	6th	Homeless individuals/Families MOHCD: City preference for COP, Displaced Housing Preference, Live/Work Preference under Chapter 47 Admin Code applies to DAHLIA lottery units.	Individual; Family Homeless MOHCD: 8 HOPWA	DHSH Coordinated Entry; no referral within 30 calendar days results in SFHA referral MOHCD: MOHCD refers for HOPWA units. Check with sponsor if any overlap with homeless designation or PBV. If any, please coordinate with MOHCD to ensure HOPWA requirements met.
Ellis Street Apartments	864	Ellis	NONE	NONE	DHSH/SFHA: If TAY Overlay with PBV unit allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
Essex Hotel	684	Ellis	Adult MOHCD: City preference for COP, Displaced Housing Preference, Live/Work Preference under Chapter 47 Admin Code applies to DAHLIA lottery units.	Individual Homeless MOHCD: 44 LOSP	DHSH Coordinated Entry; no referral within 30 calendar days results in SFHA referral

Hamlin Hotel	385	Eddy	Adult MOHCD: City preference for COP, Displaced Housing Preference, Live/Work Preference under Chapter 47 Admin Code applies to DAHLIA lottery units.	Individual Homeless MOHCD: none	DHSH Coordinated Entry; no referral within 30 calendar days results in SFHA referral
Hazel Betsey Community	3554	17th	Adult/Family MOHCD: City preference for COP, Displaced Housing Preference, Live/Work Preference under Chapter 47 Admin Code applies to DAHLIA lottery units.	Female head of household; Homeless with HIV/AIDS MOHCD: 9 HOPWA	DHSH Coordinated Entry; no referral within 30 calendar days results in SFHA referral MOHCD: MOHCD refers for HOPWA units. Check with sponsor if any overlap with homeless designation or PBV. If any, please coordinate with MOHCD to ensure HOPWA requirements met.
Iroquois Hotel	835	O'Farrell	Adult MOHCD: City preference for COP, Displaced Housing Preference, Live/Work Preference under Chapter 47 Admin Code applies not DAHLIA lottery units.	Individual; Family Homeless MOHCD: none	DHSH Coordinated Entry; no referral within 30 calendar days results in SFHA referral
Island Bay Homes	1411	Flounder	NONE	NONE	SFHA
Juan Pifarre Plaza	3101	21st	NONE	Potential HOPWA Overlay	SFHA
Kelly Cullen Community	220	Golden Gate	NONE	NONE	DHSH/SFHA: If LOSP Overlay with PBV unit allow DHSH to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay
Plaza Apartments	988-992	Howard	NONE	NONE	SFHA
ReneCazenave Apartments	25	Essex	NONE	NONE	SFHA
Richardson Apartments	365	Fulton	NONE	NONE	SFHA
Richardson Hall	55	Laguna	NONE	Potential HOPWA overlay	MOHCD/SFHA: If LOSP overlay with PBV units allow MOHCD to refer through Coordinated Entry; after 30 calendar days of no referrals SFHA will refer from SFHA waitlists. SFHA: If no overlay

Ritz Hotel	216	Eddy	NONE	NONE	SRO-Owner referral
Rose Hotel	125	6th	NONE	NONE	SFHA
San Cristina	1000	Market	NONE	NONE	SFHA
Senator Hotel	519	Ellis	NONE	NONE	SFHA
South Park Residence - Gran Oriente	106	South Park	NONE	NONE	SFHA
South Park Residence - Hotel Madrid	22	South Park	NONE	NONE	SFHA
South Park Residence - Park View	102	South Park	NONE	NONE	SFHA
Star View Courts	0	6th Street at Avenue C	NONE	NONE	SFHA

CHAPTER 5: BRIEFINGS AND VOUCHER ISSUANCE

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 C.F.R. § 982.301]

The Authority must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed individually or in groups. At the briefing, the Authority 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.

Authority Policy

Briefings will be conducted in group meetings or individually with the family.

The Authority, at its discretion, may require adult household members to attend the briefing.

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

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

Notification and Attendance

Authority Policy

Families determined to be eligible for assistance will be invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the location, date, and time of the scheduled briefing.

If the notice is returned by the post office with no forwarding address, the applicant will be withdrawn and will not be placed back on the waiting list(s). If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated. If the notice is again returned by the post office, the applicant will be withdrawn and will not be placed back on the waiting list(s).

Applicants who fail to attend a scheduled briefing will automatically be scheduled for another briefing. The Authority will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend

two scheduled briefings, without prior Authority approval, will be denied assistance (see Chapter 3).

Oral Briefing [24 C.F.R. § 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 Authority's jurisdiction;
- For families eligible under portability, an explanation of portability. The Authority cannot discourage eligible families from moving under portability;
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations; and
- For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

Briefing Packet [24 C.F.R. § 982.301(b)]

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

- The term of the voucher, and the Authority's policies on any extensions or suspensions of the term. If the Authority 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 Authority determines the payment standard for a family and how the Authority determines total tenant payment for a family.
- An explanation of how the Authority determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit. For a family that qualifies to lease a unit outside the Authority jurisdiction under portability procedures, the information must include an explanation of how portability works.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of the Authority's Policy on providing information about families to prospective owners.
- The Authority's subsidy standards, including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- Information on federal, state, and local equal opportunity laws and a copy of the housing discrimination complaint form.

- A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the Authority.
- The family obligations under the program, including any obligations of a welfare-to-work family.
- The grounds on which the Authority may terminate assistance for a participant family because of family action or failure to act.
- The Authority's informal hearing procedures, including when the Authority is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- The advantages of areas that do not have a high concentration of low-income families.
- The Authority specific form HUD 5380 and the certification form HUD-5382.

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 C.F.R. § 985.3(g)]:

- Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction.
- Information about the characteristics of these areas including job opportunities, schools, transportation, and other services.
- An explanation of how portability works, including a list of portability contact persons for neighboring PHAs with names, addresses, and telephone numbers.

Additional Items to Be Included in the Briefing Packet

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

Authority Policy

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

- Fair Market Rates and Payment Standards for City and County of San Francisco
- Utility Allowances Schedule
- Record of Family's Search for Housing
- 17 Facts You Should Know About Section 8 (optional)
- Portability Information (Contact Information, Instructions, Request Form)
- Authority Informal Hearing Procedure

- Brochure: “A Good Place to Live’
- Emergency Funds for Housing
- Available Housing Listings
- Expanding Housing Opportunities Information

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

Authority Policy

Unless otherwise noted below, when family obligations require the family to respond to a request or notify the Authority of a change, family must notify the Authority of the request or change within 15 calendar days.

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

Family Obligations [24 C.F.R. § 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 NSPIRE Standards breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
- 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.

Authority Policy

The Authority 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, and destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. 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 C.F.R. § 5.2005(c)(1)].

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

Authority Policy

The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the Authority 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.

Authority 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.

- 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.

Authority 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.

Authority Policy

Notice is required under this provision only when all family members are 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 Authority 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 C.F.R. § 982.402]

For each family, the Authority determines the appropriate number of bedrooms under the Authority's 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 Authority 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 must be treated as a two-person family.
- Any live-in aide (approved by the Authority 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 Authority's subsidy standards.

Authority Policy

- One (1) bedroom will be provided for the head of household and spouse or domestic partner or co-head and an additional bedroom for up to two (2) persons within the household.
- Single person families will be issued a zero (0) bedroom "studio" voucher. However, should the family locate a one-bedroom unit, the Authority reserves the right to upgrade the family's voucher to a one-bedroom subsidy.

- Foster children will be included in determining unit size.
- Family members of the opposite sex, other than those under five (5) years old, may not be required to occupy the same bedroom or living/sleeping room. Family members of opposite gender identification will be identified for subsidy/room determinations with the gender identified by the Head of Household.

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 C.F.R. § 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 C.F.R. § 982.402(b)(8)].

5-II.D. Voucher Issuance

[24 C.F.R. § 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 C.F.R. § 982.201(e)] and after the family has attended an oral briefing [HCV 8-1].

Authority 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].

Authority Policy

Prior to issuing any vouchers, the Authority will determine whether it has sufficient funding in accordance with the policies in Part VIII of Chapter 16. If funds are insufficient to house the family at the top of the waiting list(s), the Authority must wait until it has adequate funds before it calls another family from the list [HCV GB p. 8-10]. Further, the Authority may rescind the voucher and place the affected family back on the waiting list(s) based on their original date and time of application. Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

The Authority will issue HCV vouchers as follows:

For every ten (10) tenant-based vouchers that are issued from the HCV tenant-based waitlist, three (3) additional tenant-based vouchers will be issued to applicants off of the Choice Mobility voucher waitlist. Failure to respond to notifications of reaching the top of the list and completing required paperwork will result in removal from the waitlist. RAD/PBV individuals removed from the waitlist will be required to fill out a new application form to be placed back on the waitlist.

The Authority may exercise the discretion to issue vouchers in highly escalated emergency situations where there is an imminent threat to health and safety and as reviewed on a case-by-case basis wherein the request has been escalated to the ED or their designee for a final decision in accordance with the waitlist rules in the Administrative Plan.

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.

5-II.E. Voucher Term and Extensions Voucher Term

[24 C.F.R. § 982.303]

The initial term must be stated on the voucher [24 C.F.R. § 982.303(a)].

Authority 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 the Authority grants an extension.

Extensions of Voucher Term [24 C.F.R. § 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 C.F.R. § 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 C.F.R. § 982.554(c)(4)].

Authority Policy

The Authority may grant one extension of 90 days upon written request from the family at least 15 calendar days before expiration of the initial voucher term.

The Authority will decide whether to approve or deny an extension request within 15 calendar days of the date the voucher extension request was submitted and will provide the family written notice of its decision.

The Authority may approve an additional extension in one or more increments not to exceed 30 calendar days upon written request from the family 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 Authority.

The following is a list of extenuating circumstances that the Authority 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 Authority
- 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 Authority may require the family to provide documentation to support the request or obtain verification from a qualified third-party.

Suspensions of Voucher Term [24 C.F.R. § 982.303(c)]

The Authority will suspend the term of the voucher upon the receipt of the Request for Tenancy Approval (RTA).

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].

Authority Policy

If an applicant family's voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RTA), the Authority will require the family to reapply for assistance.

Within 30 calendar days after the expiration of the voucher term or any extension, the Authority may notify the family in writing that the voucher term has expired and that the family must reapply in order to be placed on the waiting list(s).

CHAPTER 6: INCOME AND SUBSIDY DETERMINATIONS
[24 C.F.R. Part 5, Subparts E and F; 24 C.F.R. § 982]

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the PHA's subsidy. The PHA will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations.

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

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

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

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

PART I: ANNUAL INCOME

Authority Policy

HOTMA Deferred Compliance

Although this section reflects the income and asset provisions enacted under the Housing Opportunity Through Modernization Act of 2016 (HOTMA) and codified at 24 CFR Part 5, the Authority's operational implementation of these provisions is deferred in accordance with HUD guidance extending the mandatory compliance date for HOTMA Sections 102 and 104.

For all income determinations and reexaminations with effective dates prior to January 1, 2027, the Authority will continue to apply pre-HOTMA asset provisions notwithstanding the regulatory text reflected in this section. This approach is necessary due to ongoing HUD system readiness issues and related implementation guidance.

The Authority will fully implement the HOTMA provisions described in this section upon the mandatory compliance date established by HUD and confirmation that required systems and forms are available for operational use.

6-I.A. Overview

[24 C.F.R. § 5.609(a)]

Annual income includes:

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

Unlike previous versions of the regulations, the current regulations governing annual income do not list sources of income that are to be included. Instead, HUD relies on the definition of excluded income under 24 CFR 5.609(b) to provide the scope of what is included. To that end, generally, all income is included unless it is specifically excluded by regulation.

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

Annual income also includes all *actual anticipated income from assets* (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023- 27].

- Annual Income Exclusions (Exhibit 6-1)

- 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.

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.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 C.F.R. § 5.609(b)].
Foster child or foster adult	Income from all sources is excluded [24 C.F.R. § 5.609(b)(4)].
Head, spouse, or co-head 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 [24 C.F.R. § 5.609(b)(3)]. All other sources of income, except those specifically excluded by the regulations, are included.
Full-time students 18 years of age or older (not head, spouse, or co-head)	Employment income above $480/year is excluded [24 C.F.R. § 5.609(c)(i)]. All other sources of income, except those specifically excluded by the regulations, are included.

Temporarily Absent Family Members

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

Authority Policy

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

Generally, an individual who is or is expected to be absent from the assisted unit for 60 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 60 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

Authority 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 Authority 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 C.F.R. § 5.403].

Authority Policy

Families must notify the Authority if a child who is a member of the assisted household is absent due to foster care placement within 30 days of occurrence. Failure to report a child's absence may result in a finding of noncompliance with program requirements.

Temporary Absence

If a child who is a member of the assisted household is placed in foster care, the Authority will determine whether the child is temporarily or permanently absent from the unit based on the length and circumstances of the placement.

A child placed in foster care will be considered temporarily absent if the anticipated placement is 60 consecutive days or less, and the family provides documentation from the foster care agency or caseworker indicating reunification is expected within that timeframe. The child will remain a household member for rent calculation and unit size purposes during the temporary absence.

Permanent Absence

If the foster care placement exceeds 60 consecutive days, or if documentation indicates that the child is unlikely to return, the Authority will consider the child permanently absent and remove them from the household for subsidy determination and occupancy standards.

Extension Requests

The Authority may allow one extension of up to 60 additional days (for a total of 120 days) if the family provides updated information from the caseworker showing that reunification is actively planned and reasonably expected within that time. Requests must be submitted before the initial 60-day period ends.

Reinstatement of Household Member

If the child is returned to the home after being removed from the household composition, the family must notify the Authority within 30 days of return and provide documentation as requested. The Authority will add the child back to the household upon verification of residency.

Absent Head, Spouse, or Co-head

Authority Policy

An employed head, spouse, or co-head absent from the unit more than 60 consecutive days due to employment will continue to be considered a family member.

Refer to 3-I.M. for definitions of Absent Family Members.

Family Members Permanently Confined for Medical Reasons

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

Authority Policy

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

When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only if the remaining head, spouse, or co-head qualifies as an elderly person or a person with disabilities. Determination of family members as permanent or temporary will be made by the PHA once the absence exceeds 180 days and no family or medical verification of the status has been provided.

Joint Custody of Dependents

Authority Policy

Dependents that are subject to joint custody arrangements 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 family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the Authority will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes.

Caretakers for a Child

Authority Policy

The approval of a caretaker is at the owner and Authority's discretion and subject to the owner and the Authority's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the Authority will take the following actions:

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

(2) If a caretaker has assumed responsibility for a child with the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 180 days. After the 180 days has elapsed, the caretaker must provide documentation that exhibits they have assumed the responsibility for the minors remaining in the unit. Documentation includes school enrollment forms, Cal Works documentation, custody forms, etc. Absence of third-party documentation within 180 days will result in voucher termination.

(3) If a caretaker has assumed responsibility for a child without the involvement of a third party/responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for 90 days. The caretaker has to provide documentation that exhibits that they have assumed responsibility for the remaining minors in the unit. If no documentation is provided in the initial 90 days, the voucher will be terminated.

Upon submission of documentation confirming the caretaker's role within the first 90 days, the caretaker will be screened for admissions. Upon approval of all screening criteria, and confirmation that the head of household has not returned, the caretaker will become a family member at or after the 180th day.

In the event the sole head of household is deceased, the caretaker may be added as a household member as soon as documentation assuming responsibility for the remaining minors remaining in the unit has been provided and approved by the Authority. A visitor is defined as someone temporarily visiting the unit up to 180 consecutive calendar days due to the death and abandonment of the unit and the remaining minor children. The definition of "visitor" within this paragraph is limited to this paragraph's circumstances.

Any debt owed by the head of household to the Authority will be reviewed on a case-by-case basis. Debt to the Authority will require full payment or entering into a repayment agreement at the discretion of the

PHA prior to admissions.

(4) At any time that legal custody or guardianship has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.

(5) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income, and the caretaker does not qualify the family for any deductions from income.

6-I.C. Calculating Annual Income

The methodology used for calculating annual income differs depending on whether income is being calculated at initial occupancy, interim reexamination, or at annual reexamination.

Anticipating Annual Income [24 CFR 5.609(c)]

At initial occupancy and for an interim reexamination of family income, the PHA is required to use anticipated income (current income) of the family for the upcoming 12-month period.

Basis of Annual Income Projection

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

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

During annual and streamlined reexaminations, 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 C.F.R. § 5.233(a)(2)].

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

Authority Policy

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

The Authority 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 Authority 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.

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/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases the 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 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

All amounts, not specifically excluded in 24 CFR 5.609(b), received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and the value of net family assets exceeding $50,000 is included in annual income [24 C.F.R. § 5.609(a)(1)].

Authority Policy

For persons who regularly receive bonuses or commissions, the Authority will verify and then average amounts received for up to two years preceding admission or reexamination. In either case the family may provide, and the

Authority 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 Authority 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 Except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 C.F.R. § 5.609(b)(11)].

Types of Earned Income Not Counted in Annual Income

Temporary, Nonrecurring, or Sporadic Income [24 C.F.R. § 5.609(b)(24)]

This type of income (including gifts) is not included in annual income.

Authority 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.

Earned Income of Minors

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income [24 C.F.R. § 5.609(b)(3)]. (See Eligibility chapter for a definition of *foster children*.)

Earned Income of Full-Time Students

Earnings income of dependent full-time students in excess of $480 (adjusted annually by HUD) for each full-time student 18 years old or older (except for the head, spouse, or co-head) are not counted [24 C.F.R. § 5.609(b)(14)]. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

Income of a Live-in Aide

Income earned by a live-in aide, as defined in [24 C.F.R. § 5.403], is not included in annual income [24 C.F.R. § 5.609(b)(8)]. (See Eligibility chapter for a full discussion of live-in aides).

Income Earned under Certain Federal Programs

Income from some federal programs is specifically excluded from consideration as income [24 C.F.R. § 5.609(b)(22)], including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. § 5044(g), 5058)
- 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)

State and Local Employment Training Programs

Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program [24 C.F.R. § 5.609(b)(12)(iv)].

Authority Policy

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

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

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

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

HUD-Funded Training Programs

Amounts received under training programs funded in whole or in part by HUD [24 C.F.R. § 5.609(b)(12)(iv)] 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.

Authority 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 C.F.R. § 5.609(b)(24)(iii)(iv)]. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

Earned Income Disallowance

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).

6-I.E. Business Income
[24 C.F.R. § 5.609(b)(28)]

Annual income includes "the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family" [24 C.F.R. § 5.609(b)(28)].

Business Expenses

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

Authority Policy

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

Business Expansion

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

Authority Policy

Business expansion is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a

construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of property by a hair care business to open at a second location would be considered a business expansion.

Capital Indebtedness

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

Authority Policy

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

Negative Business Income

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

Withdrawal of Cash or Assets from a Business

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

Authority Policy

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

Co-owned Businesses

Authority Policy

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

6-I.F. Assets

[24 C.F.R. § 5.610 (c)(3) [published at 87 FR 60200, effective January 1, 2024]]

Overview

If a family has net family assets over $50,000 (adjusted annually by HUD), the PHA must include the greater of:

- Actual income earned from those assets
- Imputed income using HUD's passbook savings rate

The PHA may accept a declaration from the family that their net assets do not exceed $50,000 without needing to further verify that declaration.

For assets disposed of for less than fair market value during the two years preceding the date of application for the program or reexamination, as applicable, the difference in value between the consideration received and the fair market value must be included in net family assets.

Exhibit 6-1 provides the regulatory requirements for calculating income from assets [24 C.F.R. § 5.609(c); 87 FR 60200] 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 PHA policies related to each type of asset.

Optional policies for family self-certification of assets are found in Chapter 7.

General Policies

Income from Assets

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

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

Asset Valuation

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

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

- The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

Authority Policy

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

Lump-Sum Receipts

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

Imputing Income from Assets [24 C.F.R. § 5.610(c)(3), Notice PIH 2023-03]

When the family has net family assets in excess of $50,000, the PHA will include in annual income the greater of (1) the actual income derived from the assets or (2) the imputed income.

Determining Actual Anticipated Income from Assets

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

Withdrawal of Cash or Liquidation of Investments

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

Jointly Owned Assets

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

Authority Policy

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

owners.

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

Assets Disposed of for Less than Fair Market Value

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

Minimum Threshold

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

Authority Policy

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

When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification 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

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

Authority Policy

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

Authority Policy

Families must sign a declaration form at initial certification and each recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. The Authority may verify the value of the assets disposed of if other information available to the Authority 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.

Authority Policy

In determining the value of a non-interest-bearing account, the PHA will use the current balances from a bank statement dated within 60 days of the PHA's request.

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

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

Authority Policy

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

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

Equity in Real Property or Other Capital Investments

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

Authority Policy

In determining the equity, the Authority will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

The Authority will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, the Authority 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 C.F.R. § 5.603]
- 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 C.F.R. § 5.603]
- Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]
- Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6-I.F.
- Interests in Indian Trust lands [24 C.F.R. § 5.603]
- Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]

The PHA 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 of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].

Authority Policy

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

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 will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

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

Authority Policy

In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless the Authority 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 regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

Revocable Trusts

If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

Non-revocable Trusts

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

Retirement Accounts

Company Retirement/Pension Accounts

In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, the PHA must know whether the money is accessible before retirement [HCV GB, p. 5-26].

While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset [HCV GB, p. 5-26].

After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate [HCV GB, p. 5- 26], except to the extent that it represents funds invested in the account by the family member. (For more on periodic payments, see section 6-I.H.) The balance in the account is counted as an asset only if it remains accessible to the family member.

IRA, Keogh, and Similar Retirement Savings Accounts

IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty [HCV GB, p. 5-25].

Personal Property

Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset [HCV GB, p. 5-25].

Authority Policy

In determining the value of personal property held as an investment, the Authority will use the family's estimate of the value. The Authority 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.

Personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting 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 C.F.R. § 5.603(b)].

Authority 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 GB 5-25]. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

6-I.G. Periodic Payments

Regulations do not specify which types of periodic payments are included in annual income.

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

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

Periodic Payments Included in Annual Income

- Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 C.F.R. § 5.609(b)(26)].
- Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 C.F.R. § 5.609(b)(24)(vii) and HCV, p. 5-14].

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

Most lump-sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income. 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 [24 C.F.R. § 5.609(b)(16)].

Authority Policy

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

Treatment of Overpayment Deductions from Social Security Benefits

The PHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from his or her benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percentage of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2012-10].

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 C.F.R. § 5.609(b)(4)]. 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.

Authority Policy

The Authority will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

Amounts paid or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the state Medicaid agency (including through managed care entity) or other state or federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit. [24 C.F.R. § 5.609(b)(19)].

Authority Policy

- The Authority will exclude income of an individual who is an In Home Supportive Services (IHSS) worker for an individual in the same household who is disabled.
- Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. 1626(c)).
- Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. § 9858q).
- Earned Income Tax Credit (EITC) refund payments (26 U.S.C. 32(j)). 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.H.).
- Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA).

6-I.H. Payments in Lieu of Earnings

Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.).

6-I.I. Welfare Assistance Overview

Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 C.F.R. § 5.603(b)].

Sanctions Resulting in the Reduction of Welfare Benefits [24 C.F.R. § 5.615]

The PHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The full text of the regulation at 24 C.F.R. § 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

Covered Families

The families covered by 24 C.F.R. § 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 C.F.R. § 5.615(b)].

Imputed Income

When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the PHA must include in annual income "imputed" welfare income. The PHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced as a result of the sanction.

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

Offsets

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 C.F.R. § 5.615(c)(4)].

6-I.J. Periodic and Determinable Allowances

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

Alimony and Child Support

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

Authority Policy

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

Payments are not being made is defined by a family not receiving any payment for more than 60 days. Partial payments received from the child enforcement agency during the last 60 days will be considered as alimony or child support being received and the average payments received will be

considered.

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.

Independent arrangements for child support or alimony must be reported and will be counted based on actual amounts being received.

Regular Contributions or Gifts

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

Authority Policy

Examples of regular contributions include but are not limited to: (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, beauty services, and clothing provided to a family on a regular basis.

Non-monetary contributions will be valued at the cost of purchasing the items, as determined by the Authority. The Authority will make every effort to seek three (3) current quotes from reliable internet sources for the cost of purchasing the item or service and counting the average.

For contributions that may vary from month to month (e.g., utility payments), the Authority will include an average amount based upon past history of 2-12 months.

6-I.K. Student Financial Assistance

[24 C.F.R. § 5.609(b)(9); Notice PIH 2015-21]

In 2005, Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

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

Types of Assistance

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

Examples of Assistance Under Title IV of the HEA Include:

- Federal Pell Grants
- Teach Grants
- Federal Work Study Programs

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

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

Actual covered costs are defined as the actual costs of:

- Tuition, books, and supplies;
- Including supplies and equipment to support students with learning disabilities or other disabilities;
- Room and board; and
- Other fees required and charged to a student by the education institution. For a student who is not the head of household or spouse/cohead, actual covered costs also include the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

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

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

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

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

- The Federal government
- A state, tribal, or local government;
- A private foundation registered as a nonprofit;
- A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
- An institution of higher education. Student financial assistance does not include:

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

Calculating Income from Student Financial Assistance [Notice PIH 2023-27]

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

Authority Policy

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

If the student does not receive any assistance under Title IV of the HEA but does receive assistance from another source, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(9)(ii). The PHA will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The PHA will include any amount of financial assistance in excess of the students' actual costs covered in the family's annual income.

Example 1

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

When a student receives assistance from both Title IV of the HEA and from other sources, the PHA will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(9)(ii). The assistance received under Title IV of the HEA will be applied to the student's actual covered costs first and then the other student financial assistance will be applied to any remaining actual covered costs. If the amount of assistance excluded under Title IV of the HEA equals or exceeds the actual covered costs, none

of the assistance included under "other student financial assistance" would be excluded from income.

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

Example 2

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

Example 3

- Actual covered costs: $22,000
- Title IV HEA assistance: $15,000
- The remaining amount not covered by Title IV HEA assistance is $7,000 ($22,000 in actual covered costs-$15,000 in Title IV HEA assistance)
- Other student financial assistance: $5,000

Example 4

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

6-I.L. Additional Exclusions from Annual Income

Other exclusions contained in 24 C.F.R. § 5.609(b) that have not been discussed earlier in this chapter include the following:

- Reimbursement of medical expenses [24 C.F.R. § 5.609(b)(6)]
- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 C.F.R. § 5.609(b)(12)(ii)]
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 C.F.R. § 5.609(b)(12)(i)]
- 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 C.F.R. § 5.609(b)(13)]
- Adoption assistance payments in excess of $480 per adopted child [24 C.F.R. § 5.609(b)(15)]
- Refunds or rebates on property taxes paid on the dwelling unit [24 C.F.R. § 5.609(b)(18)]
- Payments made by or authorized by a State Medicaid agency (included through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's unit. [24 C.F.R. § 5.609(b)(19)]
- Amounts specifically excluded by any other federal statute [24 C.F.R. § 5.609(b)(22), 79 Fed. Reg. 28,938 (May 20, 2014) (notice)]. 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)). Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC.

(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 Workforce Investment Act of 1998 (29 U.S.C. § 2931).

(g) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts.

(h) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04).

(i) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. § 1774(b)).

(j) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled Elouise *Cobell et al.* v. *Ken Salazar et al.,* for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010.

(l) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. §§ 1407-1408).

(m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs).

(n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. § 3056(f)).

(o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.).

(p) Payments received under 38 U.S.C. § 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida.

(q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. § 1721).

(r) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. § 9858q).

(s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. § 32(j))

(t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)

(u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. § 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 C.F.R. § 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. § 1437a(b)(3)(E) (Pub. L. 109–249) (see Section 6-I.L. for exceptions).

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

(w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. § 10602).

(x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002.

(y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. § 117b(a)).

(z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations.

PART II: ADJUSTED INCOME

Authority Policy

HOTMA Deferred Compliance

Although this section reflects the mandatory deduction provisions enacted under the Housing Opportunity Through Modernization Act of 2016 (HOTMA) and codified at 24 CFR Part 5, the Authority's operational implementation of these provisions is deferred in accordance with HUD guidance extending the mandatory compliance date for HOTMA Sections 102 and 104.

For all income determinations and reexaminations with effective dates prior to January 1, 2027, the Authority will continue to apply pre-HOTMA deduction provisions notwithstanding the regulatory text reflected in this section. This approach is necessary due to ongoing HUD system readiness issues and related implementation guidance.

The Authority will fully implement the HOTMA provisions described in this section upon the mandatory compliance date established by HUD and confirmation that required systems and forms are available for operational use.

6-II.A. Overview

HUD regulations require PHAs to deduct from annual income any mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 C.F.R. § 5.611.

5.611(a) Mandatory deductions. In determining adjusted income, the responsible entity must deduct the following amounts from annual income:

(1) $480 for each dependent (as adjusted annual by HUD);

(2) $525 for any elderly family or disabled family (as adjusted annually by HUD);

(3) The sum of the following, to the extent the sum exceeds ten percent of annual income:

(i) Unreimbursed health and medical care expenses of any elderly family or disabled family; and

(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 combined 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.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

Anticipating Expenses

Authority Policy

The Authority 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 non-school periods and cyclical medical expenses), the Authority will estimate costs based on historic data and known future costs.

If a family has an accumulated debt for medical or disability assistance expenses, the Authority 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 Authority may require the family to provide documentation of payments made in the preceding year.

6-II.B. Dependent Deduction

Effective January 1, 2024, the dependent deduction amount is $525. This amount will be adjusted annually (see Attachment H) and applies to a family's next annual or interim reexamination after the annual adjustment, whichever is sooner. No later than September 1 annually, HUD will publish the CPI-W adjusted dependent deduction to the HUDUser website. PHAs and owners must implement the adjusted dependent deduction for all income examinations that are effective on January 1 or later.

6-II.C. Elderly or Disabled Family Deduction

A single deduction of $575 is taken for any elderly or disabled family [24 C.F.R. § 5.611(a)(2)]. An *elderly family* is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 C.F.R. § 5.403].

6-II.D. Medical Expenses Deduction

[24 C.F.R. § 5.611(a)(3)(i)]

The final rule established that the sum of reimbursed health and medical care, reasonable attendant care, and auxiliary expenses that exceed ten percent of the family's annual income can be deducted from annual income. Prior to January 1, 2024, the threshold was three percent of a family's annual income.

Definition of Medical Expenses

HUD regulations define *medical expenses* at 24 C.F.R. § 5.603(b) to mean "medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance."

Authority 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.

Summary of Allowable Medical Expenses from IRS Publication 502	
Services of medical professionals Surgery and medical procedures that are necessary, legal, non-cosmetic Services of medical facilities Hospitalization, long-term care, and in- home nursing services Prescription medicines and insulin, but not nonprescription medicines even if recommended by a doctor	Substance abuse treatment programs Psychiatric treatment Ambulance services and some costs of transportation related to medical expenses The cost and care of necessary equipment related to a medical condition (e.g., eyeglasses/lenses, hearing aids, crutches, and artificial teeth)
Improvements to housing directly related to medical needs (e.g., ramps for a wheel chair, handrails)	Cost and continuing care of necessary service animals Medical insurance premiums or the cost of a health maintenance organization (HMO)
Note: This chart provides a summary of eligible medical expenses only. Detailed information is provided in IRS Publication 502. Medical expenses are considered only to the extent they are not reimbursed by insurance or some other source.	

Families That Qualify for Both Medical and Disability Assistance Expenses

Authority Policy

This policy applies only to families in which the head, spouse, or co-head is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the Authority 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 C.F.R. § 5.603(b) and 24 C.F.R. § 5.611(a)(3)(ii)]

Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they:

(1) are necessary to enable a family member 18 years or older to work,

(2) are not paid to a family member or reimbursed by an outside source,

(3) in combination with any medical expenses, exceed three percent of annual income, and

(4) do not exceed the earned income received by the family member who is enabled to work.

Earned Income Limit on the Disability Assistance Expense Deduction

A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work [24 C.F.R. § 5.603(b)].

The disability expense deduction is capped by the amount of "earned income received by family members who are 18 years of age or older and who are able to work" because of the expense [24 C.F.R. § 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

Authority Policy

The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, the Authority will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

When the Authority determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

Eligible Disability Expenses

Examples of auxiliary apparatus are provided in the *HCV Guidebook* as follows: "Auxiliary apparatus are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work" [HCV GB, p. 5-30].

HUD advises PHAs to further define and describe auxiliary apparatus [VG, p. 30].

Eligible Auxiliary Apparatus

Authority 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.

Authority Policy

Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

If the care attendant also provides other services to the family, the Authority will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

Payments to Family Members

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 C.F.R. § 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

Necessary and Reasonable Expenses

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

Authority Policy

The Authority determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the Authority will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the PHA 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

Authority Policy

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either medical or disability assistance expenses, the Authority 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

Under 24 CFR §5.611 (d), any reasonable childcare expenses necessary to enable a member of the family to be employed or to further their education are deducted from income. Reasonable childcare expenses are defined in 24 CFR 5.603(a) and are expenses for the care of children (including foster children if the unreimbursed childcare expenses are paid from the family's annual income and not another source, such as a stipend from the child welfare agency) age twelve (12) and younger, when all the following statements are true:

- The care is necessary to enable a family member to be employed or further his or her education (e.g. work, look for work, or further their education (academic or vocational);
- The expense is not reimbursed by an agency or individual outside the household; and
- The expenses incurred to enable a family to work do not exceed the amount of employment income that is included in annual income.

Clarifying the Meaning of *Child* for This Deduction

Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household [VG, p. 26]. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses [HCV GB, p. 5-29].

Qualifying for the Deduction

Determining Who Is Enabled to Pursue an Eligible Activity

Authority 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 childcare deduction (seeking work, pursuing an education, or being gainfully employed).

In evaluating the family's request, the Authority 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

Authority Policy

If the childcare 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 Authority.

Furthering Education

Authority Policy

If the childcare expense being claimed is to enable a family member to further his or her education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

Being Gainfully Employed

Authority Policy

If the childcare 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

When a family member looks for work or furthers his or her education, there is no cap on the amount that may be deducted for childcare – although the care must still be necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income" [24 C.F.R. § 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any income exclusions are applied.

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 the amount of time spent working [HCV GB, p. 5-30].

Authority Policy

When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, the PHA will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

Eligible Child Care Expenses

The type of care to be provided is determined by the assisted family. The 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 [VG, p. 26].

Allowable Child Care Activities

Authority 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 childcare.

The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

If a childcare provider also renders other services to a family or childcare 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 childcare 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 childcare 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 his or her education, and (2) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

Authority Policy

Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare 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 childcare costs, the PHA will use the schedule of childcare costs from the local welfare agency. Families may present, and the PHA will consider, justification for costs that exceed typical costs in the area.

6-II.G. Permissive Deductions

[24 C.F.R. 5.611(b)(1); [Effective January 1, 2024]

Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purposes. If the Authority offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions.

Authority Policy

In accordance with 24 C.F.R. 5.611(b), the Authority will deduct from annual income payments issued to Housing Choice Voucher program families for research-related programs. Programs that qualify as "research- related" will be determined at the sole discretion of the Authority. The decision of the Authority is not grievable.

PART III: CALCULATING FAMILY SHARE AND PHA SUBSIDY

6-III.A. Overview of Rent and Subsidy Calculations TTP Formula

[24 C.F.R. § 5.628]

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II).
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12).
- The welfare rent (in as-paid states only).
- A minimum rent between $0 and $50 that is established by the PHA.

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-III.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

Welfare Rent [24 C.F.R. § 5.628]

Authority Policy

Welfare rent does not apply in this locality.

Minimum Rent [24 C.F.R. § 5.630]

Authority Policy

The minimum rent for this locality is $25.

Family Share [24 C.F.R. § 982.305(a)(5)]

If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the PHA's applicable payment standard: (1) the family will pay more than the TTP, and (2) at initial occupancy the PHA may not approve the tenancy if it would require the family share to exceed 40 percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than 60 days before the family's voucher was issued. (For a discussion of the application of payment standards, see section 6-III.C.)

PHA Subsidy [24 C.F.R. § 982.505(b)]

The PHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (1) the applicable payment standard for the family minus the family's TTP or (2) the gross rent for the family's unit minus the TTP. (For a discussion of the application of payment standards, see section 6-III.C.)

Utility Reimbursement [24 C.F.R. § 982.514(b)-(c)]

When the PHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits the PHA to pay the reimbursement to the family or directly to the utility provider.

Authority Policy

The Authority will make all utility reimbursements to the family.

6-III.B. Financial Hardships Affecting Minimum Rent

[24 C.F.R. § 5.630]

Authority Policy

The Authority will comply with the financial hardship rules described below.

Overview

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the PHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

HUD-Defined Financial Hardship

Financial hardship includes the following situations:

(1) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996.

Authority 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.

Authority 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. Verification of the potential eviction must be provided to the Authority. Documentation may include a pre-unlawful detainer notice from the landlord/owner or their attorney, an unlawful detainer filing, stipulated agreement, judgment, or any other timely court filed document.

(3) Family income has decreased because of changed family circumstances, including the loss of employment.

(4) A death has occurred in the family.

Authority Policy

In order to qualify under this provision, a family must describe how the death has created a financial hardship (e.g., because of funeral-related expenses or the loss of the family member's income).

(5) The family has experienced other circumstances determined by the PHA.

Authority Policy

The Authority has not established any additional hardship criteria.

Implementation of Hardship Exemption

Determination of Hardship

When a family requests a financial hardship exemption, the PHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

The PHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

Authority Policy

The Authority defines temporary hardship as a hardship expected to last 90 days or less. Long-term hardships are defined as a hardships expected to last more than 90 days.

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume the PHA has established a minimum rent of $35.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $35 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $35 Minimum rent
Minimum rent applies. TTP = $35	Hardship exemption granted. TTP = $15

Authority Policy

To qualify for a hardship exemption, a family must submit a request for a hardship exemption in writing. The request must explain the nature of the hardship and how the hardship has affected the family's ability to pay the minimum rent.

The PHA will make the determination of hardship within 30 calendar days.

No Financial Hardship

If the PHA determines there is no financial hardship, the PHA will reinstate the minimum rent and require the family to repay the amounts suspended.

Authority Policy

The Authority will require the family to repay the suspended amount within 30 calendar days of the Authority's notice that a hardship exemption has not been granted.

Temporary Hardship

If the PHA determines that a qualifying financial hardship is temporary, the PHA must suspend the minimum rent for the 90-day period beginning the first of the month following the date of the family's request for a hardship exemption.

At the end of the 90-day suspension period, the family must resume payment of the minimum rent and must repay the PHA the amounts suspended. HUD requires the PHA to offer a reasonable repayment agreement, on terms and conditions established by the PHA. The PHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

Authority Policy

The Authority will enter into a repayment agreement in accordance with the procedures found in Chapter 16 of this plan.

Long-Term Hardship

If the PHA determines that the financial hardship is long-term, the PHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

Authority 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

(3) 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.

(4) 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 C.F.R. § 982.505; 24 C.F.R. § 982.503(b)]

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 C.F.R. § 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 C.F.R. § 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, the PHA 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 unit [HCV GB, p. 7-8].

Changes in Payment Standards

When the PHA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

Decreases

If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard 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:

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 size of 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 described below.

Increases

If the payment standard amount is increased during the term of the HAP contract, the increased payment standard amount will be used to calculate the monthly housing assistance payment for the family beginning no later than the *earliest* of:

(i) the effective date of an increase in the gross rent that would result in an increase in the family share;

(ii) the family's first regular or interim reexamination; or

(iii) one-year after the effective date of the increase in the payment standard amount.

Changes in Family Unit Size

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning immediately but no later than the family's first regular reexamination following the change in family unit size.

Reasonable Accommodation

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the PHA is allowed to establish a higher payment standard for the family of not more than 120 percent of the published FMR.

6-III.D. Applying Utility Allowances

[24 C.F.R. § 982.517]

Overview

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using PHA subsidy standards, whichever is the lower of the two. See Chapter 5 for information on the PHA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

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 is not needed.

The family must request the higher allowance and provide the PHA with an explanation of the need for the reasonable accommodation and information about the amount of additional allowance required [HCV GB, p. 18-8].

Utility Allowance Revisions

At reexamination, the PHA must use the PHA current utility allowance schedule [24 C.F.R. § 982.517(d)(2)].

Authority Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

6-III.E. Prorated Assistance for Mixed Families

[24 C.F.R. § 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 PHA subsidy for a family is calculated at $500 and two of four family members are ineligible, the PHA subsidy would be reduced to $250.

HHS DEFINITION OF "ASSISTANCE"

45 C.F.R. 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).

(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) Non-recurrent, short-term benefits that:

(i) are designed to deal with a specific crisis situation or episode of need;

(ii) are not intended to meet recurrent or ongoing needs; and

(iii) will not extend beyond four months.

(2) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training);

(3) Supportive services such as child care and transportation provided to families who are employed;

(4) Refundable earned income tax credits;

(5) Contributions to, and distributions from, Individual Development Accounts;

(6) Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and

(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of [the Social Security] Act, to an individual who is not otherwise receiving assistance.

EXHIBIT 6-1: ANNUAL INCOME EXCLUSIONS

24 C.F.R. § 5.609

Annual income does not include the following:

(1) Any imputed return on an asset when net family assets total $50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust outside the control of the family or household excluded from the definition of net family assets under §5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the age of 18 years.

(4) 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), or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

(8) Income of a live-in aide, foster child, or foster adult as defined in §§5.403 and 5.603, respectively.

(9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from—

(1) The Federal government;
(2) A State, Tribe, or local government;
(3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);
(4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or
(5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), **does not include:**

(1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;
(2) Financial support provided to the student in the form of a fee for services performed (*e.g.,* a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section);
(3) Gifts, including gifts from family or friends; or
(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii)(E) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

(1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;
(2) Expressly to assist a student with the costs of higher education; or
(3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs

of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions form any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government.

(11) Special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)

(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed $200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. (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);

(iv) 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 unless those amounts are excluded under paragraph (b)(9)(i) of this section;

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(14) Earned income of dependent full-time students in excess of the amount of the deduction for dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

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

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal Statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacing housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (*e.g.,* wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

EXHIBIT 6-3: TREATMENT OF FAMILY ASSETS

24 C.F.R. § 5.603(b) Net Family Assets

(1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under Sec. 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

(4) For purposes of determining annual income under Sec. 5.609, the term "net family assets" does not include the value of a home currently being purchased with assistance under part 982, subpart M of this title. This exclusion is limited to the first 10 years after the purchase date of the home.

EXHIBIT 6-4: THE EFFECT OF WELFARE BENEFIT REDUCTION

24 C.F.R. § 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 C.F.R. § 982.516, 24 C.F.R. § 982.551, 24 C.F.R. § 5.230, Notice PIH 2023-27]

The Authority must follow the verification guidance provided by HUD in Notice PIH 2023- 27 and any subsequent guidance issued by HUD. This chapter describes those requirements and provides supplementary Authority policies related to verification of all information that is used to establish the family's eligibility and level of assistance as follows:

Part I: General Verification Process.

Part II: Verifying Family Information.

Part III: Verifying income and Assets.

Part IV: Verifying Mandatory deductions.

The Authority is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The Authority must not pass on the cost of verification to the family.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the Authority.

PART I: GENERAL VERIFICATION REQUIREMENTS

7-I.A. Family Consent to Release of Information

[24 C.F.R. §§ 982.516(g); 982.551; 24 C.F.R. § 5.230; Notice PIH 2023-27]

The family must supply any information that the PHA or HUD determines is necessary to the administration of the program and must consent to Authority verification of that information.

Authorization for the Release of Information [Forms HUD-9886-A and HUD 9887-A]

All adult applicants must sign HUD Release of Information forms at admission, and participants must sign the forms no later than their next interim or regularly scheduled income reexamination. After an applicant or participant has signed and submitted a consent form either on or after January 1, 2024, they do not need to sign and submit subsequent consent forms at the next interim or regularly scheduled income examination except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a member of the family turns 18 years of age; and
- As required by HUD or the Authority in administrative instructions.

The purpose of form HUD-9886/9886-A is to facilitate automated data collection and computer matching from specific sources and provide the family's consent only for the specific purposes listed on the form. HUD and the Authority may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

The executed consent forms will remain effective until the family is denied assistance, the assistance is terminated, or if the family provides written notification to the Authority to revoke consent. If a family voluntarily leaves a HUD program, the family's assistance is considered to be terminated and the signed consent forms will no longer be in effect.

Authority 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-A at the family's next annual or interim reexamination, whichever is earlier.

Penalties for Failing to Consent [24 C.F.R. § 5.232; Notice PIH 2023-27]

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

Authority Policy

The Authority has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance. Within 15 calendar days of receiving a family's written notification of revocation of consent, the Authority will send the family a notice acknowledging receipt of the request and explaining that revocation will result in denial or termination of assistance, as applicable. At the same time, the Authority will notify its local HUD office of the family's revocation. The family may request an informal review (applicants) or informal hearing (participants) in accordance with Authority procedures.

7-I.B. Overview of Verification Requirements

HUD's Verification Hierarchy [Notice PIH 2023-27]

HUD requires the Authority to obtain third-party verification of:

- Reported family annual income;
- Value of net family assets exceeding $50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

Third-party verification may be obtained directly from the third-party or through the family. The Authority must demonstrate efforts to obtain third-party verification prior to accepting self-certification except in instances when self-certification is explicitly allowed. Exhibit 7-1: Verification Hierarchy illustrates the order of acceptability of each verification technique.

The Authority will use the most reliable form of verification that is available (in order of priority as provided in Exhibit 7-1) and will document the reasons when it uses a lesser form of verification.

Each of the verification methods is discussed in subsequent sections below.

Requirements for Acceptable Participant-Provided Documents

Authority Policy

Any documents used for verification must be the original (not photocopies) and must be dated within 120 days of the date they are provided to the PHA. The documents must not be damaged, altered or in any way illegible.

The Authority will accept documents dated up to 6 months before the date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, the Authority would accept the most recent report.

Print-outs from Web pages are considered original documents and must include the date printed.

The Authority reserves the right to reject any documentation provided by the family and request information directly from third-party source. Any family self-certifications must be made in a format acceptable to the Authority. The Authority reserves the right to require certain statements or forms to be signed in the presence of an Authority representative or a notary public.

File Documentation

The PHA 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.

The Form HUD-50058 is considered the official rent calculation document.

7-I.C. Up-Front Income Verification (UIV)

The PHA's use of the verification tools available from independent sources that systematically and uniformly maintains income/earnings and benefits information in computerized form for a number of individuals. HUD's EIV system will be used in its entirety by the Authority as a UIV tool as well as other non-HUD UIV tools such as The Work number (an automated verification system) and state government databases, to verify tenant reported income.

Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System (Mandatory)

HUD mandates the use of its EIV system in its entirety, including all required reports, as a third-party source to verify participant employment and income information during mandatory reexaminations or recertification of family composition and income, as well as to reduce administrative and subsidy payment errors in accordance with 24 C.F.R. § 5.233 and HUD administrative guidance in Notice PIH 2023-27. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

Authority Policy

The Authority will follow HUD's guidance on the frequency with which individual EIV reports must be utilized. Exhibit 7-2 Mandatory and Discretionary Use of EIV Reports by PHAs illustrates the suggested frequency of use as provided in Notice PIH 2023-27.

EIV Income Reports

This data is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.

Authority Policy

The Authority will obtain income reports for annual reexaminations on a monthly basis.

Income reports will be compared to family-provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6-I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Discrepancies between EIV income reports and family-provided information will be resolved as described in Chapter 6-I.C. and in this chapter.

Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

Income reports will be retained in participant files with the applicable annual or interim reexamination documents.

When the Authority determines through income reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

EIV 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 2012-10].

When identity verification for a participant fails, a message will be displayed within the EIV system, and no income information will be displayed.

Authority Policy

The Authority will identify participants whose identity verification has failed by reviewing EIV's Identity Verification Report on a monthly basis.

The Authority will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the Authority determines that discrepancies exist due to Authority errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

Using Up-Front Income Verification (UIV) to Calculate Income

HUD strongly recommends the use of up-front income verification. UIV is "the verification of income, before or during a family reexamination, through an independent source that systematically and uniformly maintains income information in computerized form for a large number of individuals" [Notice PIH 2004-01 Verification Guidance ("VG"), p. 7].

HUD allows PHAs to use UIV information in conjunction with family- provided documents to anticipate income [UIV]. Authority procedures for determining annual income will include the use of UIV methods approved by HUD. If the UIV information is not available, the Authority will use family-provided documents dated within the last 120 days of the Authority's interview date.

The Authority will follow "HUD Guidelines for Projecting Annual Income When Up-Front Income Verification (UIV) Data Is Available" in handling differences between UIV and family-provided income data. The guidelines depend on whether a difference is substantial or not. HUD defines substantial difference as a difference of $200 or more per month.

No Substantial Difference. If UIV information for a particular income source differs from the information provided by a family by less than $200 per month, the Authority will follow these guidelines:

- If the UIV figure is less than the family's figure, the Authority will use the family's information.

- If the UIV figure is more than the family's figure, the Authority will use the UIV data unless the family provides documentation of a change in circumstances to explain the discrepancy (e.g., a reduction in work hours). Upon receipt of acceptable family-provided documentation of a change in circumstances, the Authority will use the family-provided information.

Substantial Difference. If UIV information for a particular income source differs from the information provided by a family by $200 or more per month, the Authority will follow these guidelines:

- The Authority will request written third-party verification from the discrepant income source in accordance with 24 C.F.R. § 5.236(b)(3)(i).

- When the Authority cannot readily anticipate income (e.g., in cases of seasonal employment, unstable working hours, or suspected fraud), the Authority will review historical income data for patterns of employment, paid benefits, and receipt of other income.

- The Authority will analyze all UIV, third-party, and family-provided data and attempt to resolve the income discrepancy.

- The Authority will use the most current verified income data and, if appropriate, historical income data to calculate anticipated annual income.

Upfront Income Verification Using Non-HUD Systems (Optional)

In addition to mandatory use of the EIV system, HUD encourages the use of other upfront verification sources.

Authority Policy

The Authority will inform all applicants and participants of use of the following UIV resources during the admission and reexamination process:

- HUD's EIV System.
- The Work Number.

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 Authority has independently verified the UIV information, and the family has been granted an opportunity to contest any adverse findings through the Authority's informal review/hearing process.

See Chapter 6 for the Authority's policy on the use of UIV/EIV to project annual income.

7-I.D. Third-Party Written Verification (Level 4) and Oral Verification Written Third-Party Verification

[Notice PIH 2023-27]

Written third-party verification documents must be an original or authentic document generated by a third-party source, dated within 120 days of the date received by the Authority, and may be supplied by the family ("tenant provided documents") or received directly from a third- party source. Examples of acceptable tenant-provided documents include, but are not limited to:

- Pay stubs, payroll summary reports, employer notice/letter of hire/letter of termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.
- The Authority is required to obtain, at minimum, two current and consecutive pay stubs for determining projected annual income from wages when relying on pay stubs for Level 4 documentation.
- The PHA 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.

Authority Policy

Third-party documents provided by the family must be dated within 120 days of the Authority request date.

If the Authority determines that third-party documents provided by the family are not acceptable, the PHA will explain the reason to the family and request additional documentation. The Authority may reject documentation provided by the family if the document is not an original, if the document if the document appears to be forged, or if the document is altered, mutilated, or illegible.

As verification of earned income, the Authority will require the family to provide two to four of the most current, consecutive pay stubs dated within 120 calendar days of the Authority's request.

Written Third-Party Verification Form

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. When upfront verification is not available and the family is unable to provide written third- party documents, the PHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

- PHAs may mail, fax, or e-mail third-party written verification form requests to third-party sources.

Authority Policy

The Authority will send third-party verification forms directly to the third party.

Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by the Authority.

Oral Third-Party Verification [Notice PIH 2010-19]

- For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.
- Oral third-party verification is mandatory if neither form of written third-party verification is available.
- Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 15 calendar days.
- PHAs should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

Authority Policy

In collecting third-party oral verification, Authority staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

When any source responds verbally to the initial written request for verification the Authority will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

When Third-Party Verification is Not Required [Notice PIH 2010-19]

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

Authority Policy

If the family cannot provide original documents, the PHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost [VG, p. 18].

Primary Documents

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

Imputed Assets

HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

Authority Policy

The PHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

Value of Assets and Asset Income [24 C.F.R. § 982.516(a)]

For families with net assets totaling $5,000 or less, the PHA may accept the family's declaration of asset value and anticipated asset income. However, the PHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

Authority 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

When HUD requires third-party verification, self-certification or "tenant declaration," is used as a last resort when the PHA is unable to obtain third-party verification. Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded.
- Net family assets total $5,000 or less and the PHA has adopted a policy to accept self-certification at annual recertification, when applicable.
- The PHA has adopted a policy to implement streamlined annual re-certifications for fixed sources of income (see Chapter 11).

When the PHA was required to obtain third-party verification but instead 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.

Authority Policy

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to the Authority.

The Authority may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be made in a format acceptable to the Authority and must be signed by the family member whose information or status is being verified. All self- certifications must be signed in the presence of an Authority representative with identification at time of signing.

PART II: VERIFYING FAMILY INFORMATION

7-II.A. Verification of Legal Identity

Authority Policy

The Authority will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
• Certificate of birth, naturalization papers • Church issued baptismal certificate • Current, valid driver's license or Department of Motor Vehicles identification card • U.S. military discharge (DD 214) • Current U.S. passport • Current employer identification card	• 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, at the Authority's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to the Authority and be signed in the presence of an Authority representative or Authority notary public.

If a family is unable to provide original verification of legal identity due to domestic violence, dating violence, sexual assault or stalking, the Authority will grant the family an extension of at least 30 days in order to permit the family to obtain replacement identification and document the nexus between the Domestic Violence and the inability to comply with this requirement.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the Authority has reason to doubt the identity of a person representing him or herself to be a participant.

7-II.B. Social Security Numbers

[24 C.F.R. § 5.216, Notice PIH 2012-10]

The family must provide documentation of a valid social security number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN. If a child under

age 6 has been added to an applicant family within 6 months prior to voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of the effective date of the initial HAP contract.

Note that an individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA);
    - An original SSA-issued document, which contains the name and SSN of the individual;
    - An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual.

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

Authority Policy

The Authority will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the Authority within 90 days.

If a family is unable to provide documentation of a valid SSN for any of the household members due to domestic violence, dating violence, sexual assault or stalking, the Authority will grant the family an extension of at least 30 days in order to permit the family to obtain a replacement social security card and document the nexus between the Domestic Violence and the inability to comply with this requirement.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within 90 calendar days from the date of admission into the program. The PHA must grant one additional 90-day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

Authority Policy

The Authority will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, the PHA will terminate the individual's assistance.

If an applicant family includes a child under 6 years of age who joined the household within 6

months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within 90 days of the effective date of the initial HAP contract. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

Authority Policy

The Authority 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.

When a participant requests to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. The PHA may not add the new household member until such documentation is provided.

When a participant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within 90 calendar days of the child being added to the household. A 90-day extension will be granted if the PHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the PHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

Authority Policy

The Authority will grant one additional 90-day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

Social security numbers must be verified only once during continuously assisted occupancy.

Authority Policy

The Authority will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers and
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder.

Once the individual's verification status is classified as "verified," the Authority will retain the documents in the Participant file.

VAWA Self-Petitioners

VAWA self-petitioners are considered eligible for federal housing programs from the time they file a VAWA petition until a final determination is made by the Department of Homeland Security, including any appeal of a determination on the self-petition or legal permanent resident

status. A VAWA self-petitioner's housing application and housing assistance cannot be delayed, denied, reduced, or terminated on the basis of his or her inability to produce an SSN. A VAWA self-petitioner that applies for housing assistance on his or her own or with household members who do not have SSNs can get a nonwork SSN from the Social Security Administration. To obtain the nonwork SSN, the VAWA self-petitioner will need a letter from the Authority documenting a valid nonwork reason for the SSN and verifying specific information, including that the survivor meets all the requirements to receive the benefit or service, except for the SSN (see Exhibit 7-1 for acceptable VAWA self-petitioner documentation).

7-II.C. Documentation of Age

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

Authority Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the PHA 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.

If a family is unable to provide documentation for age for any of the household members due to domestic violence, dating violence, sexual assault, or stalking, the Authority will grant the family an extension of at least 30 days in order to permit the family to obtain a replacement documentation and document the nexus between the Domestic Violence and the inability to comply with this requirement.

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.

Authority Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

Marriage

Authority Policy

Certification by the head of household is normally sufficient verification. If the Authority has reasonable doubts about a marital relationship, the Authority will require the family to document the marriage.

A marriage certificate is required to verify that a couple is married.

Separation or Divorce

Authority Policy

Certification by the head of household is normally sufficient verification. If the Authority has reasonable doubts about a separation or divorce, the Authority will require the family to provide documentation of the divorce or separation.

A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

A copy of a court-ordered maintenance or other court record is required to document a separation.

If no court document is available, documentation from a community-based agency will be accepted.

Absence of Adult Member

Authority 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, utility bill, notarized document (jurat) or document signed by the head of household under penalty of perjury stating that the household no longer resides at the property, has not resided at the property since (fill in the date), does not provide additional income to the remaining household members, and has no intention of moving back into the unit). The Authority maintains full discretion to remove or deny the request to remove the household member. Any rent adjustments necessary will adhere to the interim policy within the Administrative Plan.

If the adult member is absent from the household due to domestic violence, dating violence, sexual assault, or stalking, the remaining family member can certify this through self-certification or form HUD–5382.

Foster Children and Foster Adults

Authority Policy

Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

7-II.E. Verification of Student Status

General Requirements

Authority Policy

The Authority requires families to provide information about the student status of all students who

are 18 years of age or older. This information will be verified only if:

- The family reports full-time student status for an adult other than the head, spouse, or co-head;
- The family reports childcare expenses to enable a family member to further his or her education; or
- 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.

Authority Policy

In accordance with the verification hierarchy described in section 7-1.B, the Authority will determine whether the student is exempt from the restrictions in 24 C.F.R. § 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see section Exhibit 3-2).
- The student is at least 24 years old.
- The student is a veteran, as defined in section 3-II.E.
- The student is married.
- The student has at least one dependent child, as defined in section 3-II.E.
- The student is a person with disabilities, as defined in section 3-II.E, and was receiving assistance prior to November 30, 2005.

If the Authority cannot verify at least one of these exemption criteria, the Authority will conclude that the student is subject to the restrictions on assistance at 24 C.F.R. § 5.612. In addition to verifying the student's income eligibility, the Authority will then proceed to verify either the student's parents' income eligibility (see section 7-III.J) or the student's independence from his/her parents (see below).

Independent Student

Authority Policy

The Authority will verify a student's independence from his/her parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

- Either, reviewing and verifying previous address information to determine whether the student has established a household separate from

his/her parents for at least one year or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see section 3- II.E).

- Reviewing prior year income tax returns to verify whether a parent has claimed the student as a dependent.
- Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is $0.

7-II.F. Documentation of Disability

The PHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. The PHA is not permitted to inquire about the nature or extent of a person's disability [24 C.F.R. § 100.202(c)]. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA will not place this information in the tenant 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 http://www.hhs.gov/ocr/privacy/.

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability;
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability;
- Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance;
- Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

Family Members Receiving SSA Disability Benefits

Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions [VG, p. 23].

Authority Policy

For family members claiming disability who receive disability benefits from the SSA, the Authority will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, the Authority will request a current (dated within the last 60 days) SSA benefit verification letter from each family member claiming disability status. If the family is unable

to provide the document(s), the Authority will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to the Authority.

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 C.F.R. § 5.403.

Authority 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 C.F.R. § 5.508]

Overview

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants or VAWA self-petitioners (see 3-II.B.). 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 PHA 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 a VAWA self-petitioner, and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 C.F.R. § 5.508(g)(5)].

U.S. Citizens and Nationals

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

The PHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

Authority Policy

Family members will be required to provide a U.S. birth certificate, United States passport, Employment Authorization card, Temporary resident card, or other appropriate documentation, as provided by Section 214 of the Housing and Community Development Act of 1980, as amended.

If a family is unable to provide documentation of immigration status for any of the household members due to domestic violence, dating violence, sexual assault, or stalking, the Authority will grant the family an extension of at least 90 days in order to permit the family to obtain replacement documentation.

Eligible Immigrants and VAWA Self-Petitioners

Documents Required

All family members claiming status as an eligible immigrant or VAWA self-petitioner must declare their status in the same manner as U.S. citizens and nationals.

PHAs must obtain verification of the declaration by requiring presentation of appropriate documentation, as provided by Section 214 of the Housing and Community Development Act of 1980, as amended.

Authority Policy

Family members who claim status as an eligible immigrant or VAWA self-petitioner will be required to provide Section 214 documents listed in 24 CFR Section 5.508(b)(1) and referred to in Section 5.510. Exhibit 7-3 at the end of this chapter summarizes documents family members must provide.

PHA Verification [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 7-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

The PHA will follow all USCIS protocols for verification of eligible immigration status.

7-II.H. Verification of Preference Status

The PHA must verify any preferences claimed by an applicant that determined placement on the waiting list.

Authority Policy

The Authority will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. The Authority will verify this preference using the Authority's termination records. See Exhibit 4-1.

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 PHA policies that supplement the general verification procedures specified in Part I of this chapter.

7-III.A. Earned Income

Tips

Authority 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

Authority 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

Authority Policy

Business owners and self-employed persons will be required to provide:

- An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self- employed person must certify to its accuracy.
- All schedules completed for filing federal and local taxes in the preceding year.
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.
- Statement of Income Expenses.

The Authority will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self- employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations.

At any reexamination the Authority may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

If a family member has been self-employed less than three (3) months, the Authority will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months the Authority will require the family to provide documentation of income and expenses for this period and use that information to project income.

7-III.C. Periodic Payments and Payments in Lieu of Earnings

For policies governing streamlined income determinations for fixed sources of income, please see Chapter 11.

Social Security/SSI Benefits

Authority Policy

To verify the SS/SSI benefits of applicants, the Authority 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 Authority will help the applicant request a benefit verification letter from SSA's Web site at 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 Authority.

To verify the SS/SSI benefits of participants, the Authority 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 Authority 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 Authority will help the participant request a benefit verification letter from SSA's Web site at 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 Authority.

Social Security/SSI Benefits Elderly Families and Disabled Families on Fixed Income

Authority Policy

1. The Authority may conduct a streamlined re-examination of income for elderly families and disabled families when 100 percent of the family's income consists of fixed income. The Agency will recalculate family incomes by applying any published cost of living adjustments to the previously verified income amount.

2. For purposes of this streamlined process, the term "fixed income" includes income from:

a. Social Security payments to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);

b. Federal, State, local, and private pension plans; and

c. Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic receipts that are of substantially the same amounts from year to year.

7-III.D. Alimony or Child Support

Authority Policy

The methods the Authority will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

If the family declares that it ***receives regular payments***, verification will be obtained in the following order of priority:

1) Copies of the receipts and/or payment stubs for the 60 days prior to Authority request.
2) Third-party verification form from the state or local child support enforcement agency.
3) Third-party verification form from the person paying the support.
4) Family's self-certification of amount received.

If the family declares that it receives ***irregular or no payments***, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. This may include:

1) A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts.
2) If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts.

Note: Families are not required to undertake independent enforcement action.

7-III.E. Assets and Income from Assets

Assets Disposed of for Less than Fair Market Value

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

Authority Policy

The Authority will verify the value of assets disposed of only if:

- The Authority does not already have a reasonable estimation of its value from previously collected information; or
- The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certification 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 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 ¼ 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

Authority 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 Authority 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

Authority Policy

The Authority 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 Authority 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 Authority 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 Authority will accept an original document from the entity holding the account dated no earlier than 12 months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

7-III.H. Income from Excluded Sources

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds) [Notice PIH 2013-04].

PHAs may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional documentation. However, if there is any doubt that a source of income qualifies for full exclusion, PHAs have the option of requiring additional verification.

For partially excluded income, the PHA is required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance).

Authority Policy

The Authority will accept the family's self-certification as verification of fully excluded income. The Authority may request additional documentation if necessary to document the income source.

The Authority 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

Authority Policy

The Authority will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, and earnings are not being received by families claiming to have zero annual income.

7-III.J. Student Financial Assistance

Any financial assistance, in excess of amounts received for tuition, that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of 23 with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 C.F.R. § 5.609(b)(9); 71 Fed. Reg. 18,146 (Apr. 10, 2006) (notice)].

For students over the age of 23 with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 C.F.R. § 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, the PHA would not be able to determine whether or to what extent the income is to be excluded (see section 7-III.H).

Authority Policy

For a student subject to having a portion of his/her student financial assistance included in annual income in accordance with 24 C.F.R. § 5.609(b)(9), the Authority 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 Authority will request written verification of the student's tuition amount.

If the Authority is unable to obtain third-party written verification of the requested information, the Authority will pursue other forms of verification following the verification hierarchy in section 7-I.B.

7-III.K. Parental Income of Students Subject to Eligibility Restrictions

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from his or her parents in accordance with PHA policy [24 C.F.R. § 5.612; 71 Fed. Reg. 18,146 (Apr. 10, 2006)].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

Authority Policy

If the Authority is required to determine the income eligibility of a student's parents, the Authority will request an income declaration and certification of income from the appropriate parent(s) (as determined in section 3-II.E). The Authority will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to the Authority. The required information must be submitted (postmarked) within 10 business days of the date of the Authority's request or within any extended timeframe approved by the Authority.

The Authority reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

PART IV: VERIFYING MANDATORY DEDUCTIONS

7-IV.A. Dependent and Elderly/Disabled Household Deductions

The dependent and elderly/disabled family deductions require only that the PHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

Dependent Deduction

See Chapter 6 (6-II.B.) for a full discussion of this deduction. The PHA must verify that:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child.
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide and is a person with a disability or a full-time student.

Elderly/Disabled Family Deduction

See Eligibility chapter for a definition of elderly and disabled families and Chapter 6 (6- II.C.) for a discussion of the deduction. The PHA must verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

7-IV.B. Medical Expense Deduction

Policies related to medical expenses are found in 6-II.D. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Authority Policy

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- The Authority will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The Authority will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming 12 months.
- Written third-party verification forms, if the family is unable to provide acceptable documentation.
- If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming 12 months.
- In addition, the PHA must verify that:
- The household is eligible for the deduction.
- The costs to be deducted are qualified medical expenses.
- The expenses are not paid for or reimbursed by any other source.

- Costs incurred in past years are counted only once.

Eligible Household

The medical expense deduction is permitted only for households in which the head, spouse, or co- head is at least 62, or a person with disabilities. The PHA must verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter and as described in Chapter 7 (7-IV.A.) of this plan.

Qualified Expenses

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for the PHA's policy on what counts as a medical expense.

Unreimbursed Expenses

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

Authority Policy

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

Expenses Incurred in Past Years

Authority Policy

When anticipated costs are related to on-going payment of medical bills incurred in past years, the Authority 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.

Expenses Paid by Credit Card

Authority Policy

Any charges made on a Credit Card will not be credited until the payment to the card has been made. Proof of payment may be provided by the bank.

7-IV.C. Disability Assistance Expenses

Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

Amount of Expense

Attendant Care

Authority Policy

The Authority will accept written third-party documents provided by the family.

If family-provided documents are not available, the Authority 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

Authority Policy

Expenses for auxiliary apparatus will be verified through:

- Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming 12 months.
- Third-party verification form signed by the provider, if family-provided documents are not available.
- If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming 12 months.

In addition, the PHA must verify that:

- The family member for whom the expense is incurred is a person with disabilities (as described in 7-II.F. above).
- The expense permits a family member, or members, to work (as described in 6-II.E.).
- The expense is not reimbursed from another source (as described in 6-II.E.).

Family Member is a Person with Disabilities

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. The PHA will verify that the expense is incurred for a person with disabilities (See 7-II.F.).

Family Member(s) Permitted to Work

The PHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

Authority Policy

The Authority will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work (See 6-II.E.). This documentation may be provided by the family.

If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

Unreimbursed Expenses

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

Authority 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 will be verified following the standard verification procedures described in Part I of this chapter. In addition, the PHA must verify that:

- The child is eligible for care (12 or younger).
- The costs claimed are not reimbursed.
- The costs enable a family member to work, actively seek work, or further their education.
- The costs are for an allowable type of childcare.
- The costs are reasonable.

Eligible Child

To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of 13. The PHA will verify that the child being cared for (including foster children) is under the age of 13 (See 7-II.C.).

Unreimbursed Expense

To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

Authority Policy

The family (and the care provider) will be required to certify that the childcare expenses are not paid or reimbursed to the family from any source.

Pursuing an Eligible Activity

The PHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are actually pursuing those activities.

Authority Policy

Information to be Gathered

The PHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

Seeking Work

Whenever possible, the Authority will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases the Authority will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to the Authority any reports provided to the other agency.

In the event third-party verification is not available, the Authority will provide the family with a form on which the family member must record job search efforts. The Authority will review this information at each subsequent reexamination for which this deduction is claimed.

Furthering Education

The Authority will request third-party documentation to verify that the person permitted to further his or her education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

Gainful Employment

The Authority will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be

provided by the family.

Allowable Type of Child Care

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

Authority Policy

The Authority will verify that the type of childcare selected by the family is allowable, as described in Chapter 6 (6-II.F.).

The Authority will verify that the fees paid to the childcare provider childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The Authority will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

Reasonableness of Expenses

Only reasonable childcare costs can be deducted.

Authority Policy

The actual costs the family incurs will be compared with the Authority'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 Authority will request additional documentation, as required, to support a determination that the higher cost is appropriate.

EXHIBIT 7-1: VERIFICATION HIERARCHY		
Level	**Verification Technique**	**Ranking/Order of Acceptability**
6	Upfront Income Verification (UIV), using HUD's Enterprise Income Verification (EIV) system	Highest PHAs must pull the EIV Income Report for each family at every Annual Reexamination, unless using Safe Harbor documentation to verify the family's income. EIV may be used as the sole verification of Social Security income. EIV income information may be used to calculate other types of annual income when family agrees. See Level 4 for more information.
5	Upfront Income Verification (UIV) using non-EIV system (e.g., The Work Number, web-based state benefits systems, etc.)	Highest
4	Written, third-party verification from the source, also known as "tenant-provided verification" OR EIV + Self-Certification PHAs can choose either option when both are available to verify income. PHAs must use written, third-party verification when the income type is not available in EIV (e.g., self-employment, Go Fund Me accounts, general public assistance, Veterans Administration benefits, etc.)	High • Written, third-party verification is used when tenant disputes EIV-reported employment and income information. • The EIV Income Report may be used to verify and calculate income if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information from EIV.
3	Written, Third-Party Verification Form	Medium • Use if Level 5 or Level 4 verification is not available or is rejected by the PHA and when the applicant or tenant is unable to provide acceptable documentation. • May substitute Level 2 for written, third-party verification form, only completing one of the two forms of verification before moving to self-certification.
2	Oral Third-Party Verification	Medium
1	Self-Certification (not third-party verification)	Low Use as a last resort when unable to obtain any type of third-party verification or if specifically permitted, such as to determine actual income from assets when the family certifies that net family assets do not exceed $50,000. May be used as highest form of verification when the family reports zero income.

EXHIBIT 7-2: MANDATORY AND DISCRETIONARY USE OF EIV BY PHAs [NOTICE PIH 2023-27]		
Report Title	**Report Description**	**Frequency of Use**
Debts Owed to PHAs & Terminations	Allows users to access information concerning former tenants who left owing a debt to a PHA or who had their voucher terminated for cause.	1. At the time of processing an applicant family for admission; and 2. To enter debt information or terminations for families who have ended program participation.
Deceased Tenants Report	Identifies tenants reported by Social Security Administration (SSA) as being deceased.	At least quarterly
Existing Tenant Search	Identifies applicants who may be receiving assistance at another PIH location.	At the time of processing an applicant family for admission
Failed EIV Prescreening Report	Identifies tenants who have missing or invalid personal identifiers (last name, date of birth, SSN) in HIP/TRACS. These tenants will not be sent to SSA from EIV for the SSA identity test.	Monthly
Failed Verification Report (Failed SSA Identity Test)	Identifies tenants whose personal identifiers (last name, date of birth, SSN) do not match the SSA database. *PHAs that admit families using a self-certification of SSN must review the Failed SSN Verification Report monthly to identify and follow up on new issues.	Monthly
Identity Verification Report	Identifies tenants that, failed SSA verification, and failed EIV pre-screening.	Monthly
Income Information for PIH Programs	Provides employment and income reported by HHS and SSA for each household member that passes the SSA identity test. Identifies tenants who: • May not have reported complete and accurate income information; and/or • May be receiving multiple subsidies.	Annual Reexamination: Must be used*: ***Not** required to use at annual reexamination if PHA used Safe Harbor verification to determine the family's income at last annual. Interim Reexamination: May be used if desired. **New Admissions:** Review new admissions within 120-days after the move-in information is transmitted to HUD to confirm/ validate the income reported by the household. (PHAs must rely on other documents (e.g., pay stubs, benefit award letters, etc.) to verify families' income eligibility before admission.

Income Validation Tool (IVT) Report for PIH Programs	Provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with the Department of Health and Human Services (HHS) using the National Directory of New Hires (NDNH) database, and the SSA.	PHAs are required to obtain an EIV Income and IVT Report for each family any time the PHA conducts an annual reexamination* of family income and composition. * N**ot** required to use the report at annual reexamination if PHA used Safe Harbor verification to determine the family's income at the last reexamination. May use the report at other intervals, in accordance with the PHA's ACOP or Administrative Plan. *See note under Summary above about updates to the Public Housing Income Discrepancy Reports.*
Multiple Subsidy Report	Identifies tenants who may be receiving rental assistance at more than one location.	At least quarterly
New Hires Report	Identifies tenants who have new employment within the last six months. Report is updated monthly.	PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification to determine the family's income. PHAs that do not require families to undergo interim reexaminations (IRs) for income increases after an IR decrease do not need to review this report at all between a family's annual reexamination. If the PHA's policy is to require an IR for increases in income after an IR decrease, then the PHA must review the report quarterly after the family's IR decrease.
No Income Reported by HHS or SSA	Identifies tenants who passed the SSA identity test but where no income was reported by HHS or SSA. This scenario does not mean that the tenant does not have any income. PHAs must obtain written, third-party verification of any income reported by the tenant.	As identified in a PHA's ACOP or Administrative Plan

EXHIBIT 7-3: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB pp 25-26]

- **All** noncitizens claiming eligible immigration status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form.
- Additional documents are required based upon the person's status.

Elderly Noncitizens

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

All other Noncitizens

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)
• Form I-94 Arrival-Departure Record annotated with one of the following:
  • "Admitted as a Refugee Pursuant to Section 207"
  • "Section 208" or "Asylum"
  • "Section 243(h)" or "Deportation stayed by Attorney General"
  • "Paroled Pursuant to Section 221 (d)(5) of the USCIS"
	• Form I-94 Arrival-Departure Record with no annotation accompanied by:
	  • A final court decision granting asylum (but only if no appeal is taken);
	  • A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);
	  • A court decision granting withholding of deportation; or
	  • A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).

• Form I-688 Temporary Resident Card annotated "Section 245A" or Section 210".	• Form I-688B Employment Authorization Card annotated "Provision of Law 274a. 12(11)" or "Provision of Law 274a.12".

- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant's entitlement to the document has been verified; or
- Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register.*

CHAPTER 8: NATIONAL STANDARDS FOR THE PHYSICAL INSPECTION OF REAL ESTATE AND RENT REASONABLENESS DETERMINATIONS

[24 CFR 5 Subpart G; Notice PIH 2024-26; 24 CFR 982 Subpart I and 24 CFR 982.507]

Owners must maintain all units occupied by families receiving Housing Choice Voucher (HCV) and Project Based Voucher (PBV) assistance in accordance with housing quality standards. Units assisted under the program must comply with HUD's National Standards for the Physical Inspection of Real Estate (NSPIRE) regulations and standards no later than October 1, 2025. The inspection performance standards and procedures for conducting NSPIRE inspections must be included in the administrative plan [Notice PIH 2024-26].

All units must pass an inspection prior to the approval of a lease (with some exceptions) and at least annually during the term of the HAP contract, and at other times as needed, to determine that the unit meets housing quality 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 standards in this plan refers to the combination of both HUD and Authority-established requirements.

This chapter explains HUD and Authority requirements related to housing quality 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 Authority 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 Authority will use to make rent reasonableness determinations.

Special requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

PART I: 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)].

8-I.C. Additional Local Requirements

[24 CFR 5.705(a)(3) and Notice PIH 2024-26]

The Authority 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. [24 C.F.R. § 982.401(a)(4)].

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.

Thermal Environment [HCV GB p.10-7]

The Authority must define a "healthy living environment" for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

Authority Policy

The heating system must be capable of maintaining an interior temperature of 65 degrees Fahrenheit between October 1 and May 1.

Clarifications of HUD Requirements

Authority Policy

As permitted by HUD, the Authority has adopted the following specific requirements that elaborate on HUD standards.

Inspector Safety

- All pets must be restrained by a leash or cage prior to and during the inspection process. **Restraining a pet in a bedroom without a cage or leash is not permitted.* **Failure to properly restrain a pet *may result in the inspection not being performed and classified as a participant "no-show"***. "No-shows" will be handled in accordance with the polices contained in this Plan.
- The Authority may require any adult member present to provide a government issued identification prior to commencing the inspection process. **Failure to provide a government issued identification may result in the inspection not being performed and classified as a participant or owner (initial inspections) "no-show"*. "No-shows" will be handled in accordance with the polices contained in this Plan.

Unit Description

Where a unit cannot be readily identified by the Authority or where more than one unit exists in a building, the Authority may require that the unit be properly identified near the door (example: Unit A, B, 1, 2, Upper, Lower, etc.)

Walls

In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

Windows

- Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.
- Windows must be weather-stripped as needed to ensure a weather-tight seal.
- Window screens must be in good condition (applies only if screens are present).

Doors

- All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold.
- All interior doors must have no holes, have all trim intact, and be operable without the use of a key.
- Double cylinder (doubled keyed) locks are not permitted in any exterior doors.

Floors

- All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced.
- All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.
- All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.

Sinks

- All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.
- All worn or cracked toilet seats and tank lids must be replaced, and toilet tank lids must fit properly.

Access to Unit

“Through another unit” means that access to the unit is only possible by means of passage through another dwelling unit.

- Functioning mailboxes are a requirement and any damaged or missing mailboxes will be a mandatory fail item.

Security

If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

Condition of Stairs, Rails, and Porches

“Unsound and hazardous” means: stairs, porches, balconies, or missing decks with severe structural defects; broken, rotting, or missing steps; absence of a handrail when there are extended lengths of steps (generally four or more consecutive steps); absence of or insecure railings around porch or balcony which is approximately 30 inches or more above the ground.

Carbon Monoxide

Carbon Monoxide detectors must be installed in accordance with California Building Codes and the California Senate Bill SB183, which require the following:

1. The current California Building Code and California Senate Bill, SB183 require listed carbon monoxide alarms to be installed in residential occupancies in which fuel-burning appliances are installed, and in dwelling units that have attached garages as outlined below.

2. All existing one- and two-family dwellings meeting the criteria in item 1 above are required to have carbon monoxide alarms installed by July 1, 2011.

3. Other existing residential buildings must be provided with carbon monoxide alarms in which fuel-burning appliances are installed, and in dwelling units that have attached garages when alterations, repairs, or additions requiring a building permit exceed one thousand dollars ($1,000) are done.

4. Existing residential buildings with 3 units or more that meet the criteria in item 1 above are required to have carbon monoxide alarms installed by January 1, 2013.

5. For new construction, CO alarms must be hard-wired and interconnected.

6. CO alarms in existing buildings may be solely battery operated when repairs or alterations do not result in the removal of wall and ceiling finishes or there is no access by means of attic, basement, or crawl space.

7. CO alarms are required to be installed in the following locations:
    - Outside of each sleeping room in the immediate vicinity of the sleeping room.
    - On every level of a dwelling unit, including basements.
    - In tourist hotels and motels only, on the ceiling of sleeping rooms with permanently installed fuel-burning appliances.

8. Multi-purpose alarms: CO alarms combined with smoke alarms shall be listed, meet the UL 2034 standard, and be California State Fire Marshal listed for smoke alarms.

Smoke Detectors

- Smoke detectors are required in accordance with California Building Code Section 310.9.1.
- Smoke detectors are required to be present inside every bedroom or room in which someone sleeps.
- An additional detector must be present in the area directly adjacent to the sleeping areas or hallway.
- One smoke detector must be present on every floor of the unit, including basements and attics.
- Crawl spaces and uninhabitable attics do not require a smoke detector, however, if the attic or crawl space has a furnace, water heater or any other appliance that could become a source of fire (gas, oil, electric) then a smoke alarm should be present.

- Wherever more than one smoke alarm is required in new construction, the California Building Code requires that all smoke alarms shall be interconnected.

Accessory Dwelling Units (ADU)

An Accessory Dwelling Unit (ADU), also known as "in-law" or secondary units, is an additional, self-contained dwelling unit located within the same lot as an existing residential building.

Where required, ADU's must present the Authority inspector with a permit from the City allowing the ADU.

8-I.D. Life-Threatening Deficiencies

[Notice PIH 2024-26]

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	Electric dryer transition duct is detached or missing.
Exhaust Ventilation	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.
Door – 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.
Fire Escape	Fire escape component 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 head assembly is encased or obstructed by an item or object that is within 18 inches of the sprinkler head.

Sprinkler Assembly	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 Toilet	Structural system exhibits signs of serious failure. Only 1 toilet was installed, and it is missing.
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.

Authority Policy

In addition to those listed under the NSPIRE standards, the following are considered life-threatening conditions:

- Any property determined uninhabitable by a city agency, including uninhabitable units due to fire, flood, or other natural disasters.
- Any condition that jeopardizes the security of the unit (Example: missing or broken locks on exterior doors).
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling.
- A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled.
- Any electrical problem or condition that could result in shock or fire.
- Deteriorating paint as defined at 24 C.F.R. § 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six years of age if it would prevent the family from moving into the unit.
- Non-functioning of elevators without alternative means of exit are deemed substandard in accordance with SF Housing Code section 713.
- For buildings with elevators, there must be at least one operational.
- All smoke detectors must either be:
    - Hard-wired to the unit; or
    - Have a 10-year non-rechargeable, non-replaceable primary battery and
        - Is sealed;
        - Is tamper resistant;
        - Contains a silencing means; and
        - Provides notification for persons with hearing loss

- A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed.
- A light fixture is hanging by its wires.
- A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit.
- A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed.
- An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses.
- A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections.
- Any nicks, abrasions, or fraying of the insulation that exposes conducting wire.
- Exposed bare wires or electrical connections.
- Any condition that results in openings in electrical panels or electrical control device enclosures.
- Water leaking or ponding near any electrical device.

    - Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition.
    - Absence of a working heating system when outside temperature is below 60 degrees Fahrenheit.
    - Utilities not in service, including no running hot water.
    - Conditions that present the imminent possibility of injury.
    - Obstacles that prevent safe entrance or exit from the unit.

- Any components that affect the function of the fire escape are missing or damaged.
- Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency.
- The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency.
- Absence of a functioning toilet in the unit.
- Inoperable or missing smoke detectors.
- Required, missing or inoperable carbon monoxide detector.
- Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required).

- Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting.
- The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases.
- A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside.
- A fuel-fired space heater is not properly vented or lacks available combustion air.
- Safety devices on a fuel-fired space heater are missing or damaged.
- Heating, Ventilation, and Air Conditioning (HVAC): The temperature must be maintained at or above 65 degrees Fahrenheit between October 1 and May 1.

If an owner fails to correct life-threatening conditions as required by the Authority, the Authority will enforce the NSPIRE in accordance with HUD requirements. See 8- II-G.

If a family fails to correct a family-caused life-threatening condition as required by the Authority, the Authority will enforce the family obligations. See 8-II.H.

The owner will be required to repair an inoperable smoke detector within 24 hours.

8-I.E. Modifications to Provide Accessibility

[24 CFR 100.203; Notice 2003-31; and Notice PIH 2014-02]

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest-bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained [24 C.F.R. § 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable NSPIRE requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 C.F.R. §35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

8-I.F. Owner and Family Responsibilities

[24 C.F.R. § 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 that results in a breach of NSPIRE. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

Owner Responsibilities

The owner must maintain the unit in accordance with housing quality standards. A unit is not in compliance with housing quality standards if the PHA or other inspector authorized by the state or local government determines that the unit has housing quality standards deficiencies based upon an inspection, notifies the owner in writing of the deficiencies, and the deficiencies are not remedied within the appropriate time frame.

In the case of a housing quality standards deficiency that the PHA determines is caused by the tenant, any member of the household, or any guest or other person under the tenant's control (other than damage resulting from ordinary use), the PHA may waive the owner's responsibility to remedy the violation. The HAP to the owner may not be withheld or abated if the owner responsibility has been waived. However, if the family's actions constitute a serious or repeated lease violation, the owner may take legal action to evict the family. In addition, the PHA may terminate the family's assistance because of a housing quality standards breach (beyond damage resulting from ordinary use) caused by any member of the household, guest, or other person under the tenant's control.

Authority Policy

If an owner has less than six (6) units that share a meter in the same building then the owner will pay all the utility cost(s) and will not be allowed to place the cost(s) of the utilities on the tenant.

Owners are not permitted to keep storage within the assisted unit including, but not limited to: garage, parking space, attics, basements, or other storage areas designed to be utilized by the occupants of the unit.

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.

8-I.G. Special Requirements for Children with Environmental Intervention Blood Lead Level

[24 C.F.R. § 35.1225; FR Notice 1/13/17]

If the Authority is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an environmental intervention blood lead level, the Authority must complete a risk assessment of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The risk assessment must be completed in accordance with program requirements, and the result of the risk assessment must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the risk assessment report from the Authority, 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 C.F.R. § 35.1325 and 35.1330]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of NSPIRE and the Authority 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 environmental intervention blood lead level are discussed in Chapter 16.

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.

8-I.H. 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 C.F.R. § 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 Inspections.* HUD requires the PHA to inspect each unit under lease at least annually to confirm that the unit still meets housing quality standards. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.
- *Special Inspections.* A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.
- *Quality Control Inspections*. HUD requires that a sample of units be 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.

Inspection of PHA-Owned Units [24 C.F.R. § 982.352(b)]

The PHA must obtain the services of an independent entity to perform all 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).

Inspection Costs [Notice PIH 2016-05; 24 CFR 5.705(h)]

The PHA may not charge the family for unit inspections or re-inspections [24 C.F.R. § 982.405(g)]. 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 C.F.R. § 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 re-inspections 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. The owner may not pass the cost of a re-inspection fee to the family. Re-inspection 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.

Authority Policy

The Authority will not charge a fee for failed re-inspections.

Notice and Scheduling

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 C.F.R. § 982.551(d)].

Authority 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 24 hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. In the case of a life-threatening emergency, the Authority will give as much notice as possible, given the nature of the emergency.

Owner and Family Inspection Attendance

HUD permits the Authority to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

Authority Policy

When a family occupies the unit at the time of inspection an adult family member or another 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 Authority 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.

Inspections postponed as reasonable accommodations for a tenant's disability will not be considered as missed inspections and will not be grounds for adverse action. Tenants may be entitled to special arrangements or inspections as reasonable accommodation for the tenant's disabilities; such special arrangements may include, but are not limited to, inspections conducted without the tenant's presence.

8-II.B. Initial Inspection

[24 C.F.R. § 982.405(a)]

Initial Inspections [FR Notice 1/18/17]

The PHA may, but is not required to, approve assisted tenancy and start HAP if the unit fails inspection, but only if the deficiencies identified are non-life threatening. Further, the PHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last 24 months.

Authority Policy

The unit must pass the NSPIRE inspection no longer than 120 calendar days on or before the effective date of the HAP contract.

The Authority will not rely on alternative inspections and will conduct an NSPIRE inspection for each unit prior to executing a HAP contract with the owner.

Timing of Initial Inspections

HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies housing quality 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 [24 C.F.R. § 982.305(b)(2)].

Authority Policy

The Authority will complete the initial inspection, determine whether the unit satisfies NSPIRE standards, and notify the owner and the family of the determination within 30 calendar days of submission of the Request for Tenancy Approval (RTA).

Inspection Results and Re-inspections

Authority 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 Authority for good cause. The Authority will re-inspect the unit within seven (7) calendar days of the date the owner notifies the Authority that the required corrections have been made.

If the time period for correcting the deficiencies (or any Authority-approved extension) has elapsed, or the unit fails at the time of the re-inspection, the Authority will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The Authority may agree to conduct a second re-inspection, for good cause, at the request of the family and owner.

Following a failed re-inspection, the family may submit a new Request for Tenancy Approval for the 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.

Authority Policy

All utilities must be in service at initial inspection.

Appliances [Form HUD – 52580]

Authority Policy

All appliances must be in place and in proper working condition during an initial inspection.

8-II.C. Annual/Biennial NSPIRE Inspections

[24 C.F.R. § 982.405; parts 982 and 406]

Use of Alternate Inspections

Authority Policy

Each unit under HAP contract must be inspected within 24 months of the last full inspection.

The Authority will accept the results of inspections performed by HUD or for other housing programs such as HOME or LIHTC, only if HCV units are included in the population of units forming the basis of the sample.

Scheduling the Inspection

Each unit under HAP contract must be inspected within 24 months of the last full inspection.

Authority Policy

If an adult family member or the owner cannot be present on the scheduled date, the family should submit a written request to the Authority to reschedule the inspection. The written request must be submitted at least three (3) days prior to the scheduled inspection date and should include the desired rescheduled date and the reasons for the rescheduling. The Authority will make a reasonable effort to accommodate dates that fall within seven (7) calendar days of the originally scheduled date. The Authority may schedule an inspection more than seven (7) days after the original date for good cause.

If the family misses the first scheduled appointment without submitting a timely request for a new inspection date, the inspection will be considered a "fail/no show" and the Authority will automatically schedule a second inspection. A second inspection may not be re-scheduled without good cause. If the family misses two consecutive scheduled inspections without Authority approval, the Authority 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 C.F.R. § 982.405(g); HCV GB, p. 10-30]

If a participant or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, the PHA must inspect the unit within 24 hours of Notification. If the reported condition is not life-threatening, the PHA must inspect the unit within 15 days of notification.

Authority Policy

The Authority may require that the complainant (owner or family) be present at the complaint inspection.

The Authority will conduct complaint inspections related to emergency fail items within 24 hours of receipt of the telephone call, fax, or other Authority notification. Emergency complaints received on Friday will be inspected on the next business day.

The Authority will conduct complaint inspections related to non-emergency fail items within one 15 calendar days of receipt of the telephone call, fax, or other Authority notification.

During a special inspection, the Authority 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 inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the Authority may elect to conduct a full annual inspection.

8-II.E. Quality Control Inspection

[24 C.F.R. § 982.405(b); HCV GB, p. 10-32]

HUD requires an Authority 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 (3) months. The selected sample will include (1) each type of inspection (initial, annual, and special), (2) inspections completed by each inspector, and (3) units from a cross-section of neighborhoods.

8-II.F. Inspection Results and Reinspection for Units Under HAP Contract

Notification of Corrective Actions

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies NSPIRE deficiencies, the Authority will determine (1) whether or not the failure is a life threatening condition and (2) whether the family or owner is responsible.

Authority Policy

When life-threatening conditions are identified, the Authority will immediately notify both parties verbally in person or by telephone and/or in writing by door-hanger notice, facsimile, or e-mail. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the Authority's notice.

When failures that are not life threatening are identified, the Authority will send the owner and the family a written notification of the inspection results within seven (7) calendar 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 calendar days will be allowed for the correction.

The notice of inspection results will inform the owner that if life threatening conditions are not corrected within 24 hours, and non-life-threatening conditions are not corrected within the specified time frame (or any PHA-approved extension), the owner's HAP will be abated in accordance with the Authority's 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 Authority policy (see Chapter 12).

Extensions

For conditions that are life-threatening, the Authority cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, the Authority may grant an exception to the required time frames for correcting the violation, if the Authority determines that an extension is appropriate [24 C.F.R. § 982.404].

Authority Policy

Extensions will be granted in cases where the Authority has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

- A repair cannot be completed because required parts or services are not available.
- A repair cannot be completed because of weather conditions.
- A reasonable accommodation is needed because the family includes a person with disabilities.

The length of the extension will be determined on a case-by-case basis, but will not exceed 60 days, except in the case of delays caused by weather conditions or the availability of materials or services in the market needed to make the repairs. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs

possible. The necessary repairs must be made within 15 calendar days, once the weather conditions have subsided.

Re-inspections

Authority Policy

The Authority will conduct a re-inspection immediately following the end of the corrective period, or any Authority approved extension. Re- inspection of the unit is passed upon verification from the housing inspector through an on-site inspection or through certification by both the landlord & tenant that all corrections have been made to the unit. The inspector may accept an owner's certification, a receipt from a vendor, a photo of the repair, or tenant confirmation that required repairs are complete and then verify that action at the next on-site inspection.

The decision to conduct an on-site or remote re-inspection will be tied to the severity of corrections needed and/or past experience with the owner and property. Prior to and on- site re-inspection by the housing inspector, the family and owner will be given reasonable notice of the re-inspection appointment. If the deficiencies have not been corrected by the time of the re-inspection, the Authority 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 Authority policies. If the Authority is unable to gain entry to the unit in order to conduct the scheduled re-inspection, the Authority 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.

Self-Certification

The Authority has approved the use of a self-certification form to complete most reinspections. This form will accompany the failure notices that are generated and sent to the owners. The purpose of this form is to allow owners to resolve inspection failures. The Authority will not approve use of a self-certification for the following reasons:

- Fail items that are Life-threatening
- Fail items resulting from lack of access to the unit
- Initial inspections
- Re-inspections to cure an abatement
- If there are 8 or more fail items

For the above reasons, a follow up inspection is required. Otherwise, the Authority can pass the inspection with a fully executed self-certification. The tenant and an owner or owner representative must sign the form.

8-II.G. Enforcing Owner Compliance

If the owner fails to maintain the dwelling unit in accordance with NSPIRE standards, the Authority 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 Authority, HUD requires the Authority to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 C.F.R. § 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 NSPIRE failures that are the family's responsibility.

Authority Policy

The Authority will make all HAP abatements effective the first of the month following the expiration of the Authority specified correction period (including any extension).

The Authority will inspect abated units within seven (7) calendar 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 Authority must decide how long any abatement period will continue before the HAP contract will be terminated. The Authority 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 Authority will issue a voucher to permit the family to move to another unit as described in Chapter 10.

Authority Policy

The maximum length of time that HAP may be abated is 180 days. However, if the owner completes corrections and notifies the Authority before the termination date of the HAP contract, the Authority 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 Authority is 30 calendar days.

If the owner does not make the necessary corrections by the end of the abatement period, the Authority will send a notice of HAP termination to the owner and a notice to the family that the HAP contract is being terminated. Once the termination goes into effect, the Authority will not rescind it.

If the HAP for a unit is abated three or more times during a five-year period, the Authority reserves the right to terminate the contract.

8-II.H. Enforcing Family Compliance with NSPIRE

[24 C.F.R. § 982.404(b)]

Families are responsible for correcting any deficiencies listed in paragraph 8.I.F. If the family fails to correct a violation within the period allowed by the Authority (and any extensions), the Authority 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 C.F.R. § 982.507]

8-III.A. Overview

No HAP contract can be approved until the Authority 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.

Authority-Owned Units [24 C.F.R. § 982.352(b)]

In cases where an HCV family is receiving assistance in an Authority-owned unit, the Authority must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. An Authority-owned unit is defined as a unit that is owned by the Authority that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the Authority). The independent agency must communicate the results of the rent reasonableness determination to the family and the Authority. The independent agency must be approved by HUD and may be the unit of general local government for the Authority jurisdiction (unless the Authority 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 Authority 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 Authority (or independent agency in the case of Authority-owned units) will assist the family with the negotiations upon request. At initial occupancy the Authority 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 but can only occur once a year. Increases will not be approved unless any failed items identified by the most recent NSPIRE inspection have been corrected.

Authority Policy

After the initial occupancy period, the owner may request a rent adjustment. For rent increase requests after initial lease-up, the Authority 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 Authority will consider unit size and length of tenancy in the other units.

The Authority will limit all rent increases for current participants to the lower of either of the following: (1) the lower of Rent Reasonableness; (2) the Owner's Request or (3) an amount approved according to the established San Francisco Rent Board's allowable increase percentage.

Rent Control

Pursuant to Notice 2011-28, all rent increases must comply with any state or local rent control limits. The following section will outline how San Francisco's Rent Ordinance applies to the Housing Choice Voucher Program.

Exemptions to San Francisco's Rent Ordinance (San Francisco Administrative Code section 37.2(r) (5-7), California Civil Code section 1954.52):

- Residential units in buildings where certificates of occupancy were first issued after June 13, 1979, are exempt from the San Francisco Rent Ordinance;
- Single family homes; and
- Condominiums where the tenant moved in on or after January 1, 1996. San Francisco's Rent Ordinance applies to:
- Residential units in buildings (multi-unit buildings) certified for occupancy before June 13, 1979 (The SF Assessor's Office maintains a record of the construction);
- Unwarranted in-law apartments (considered multi-units per the Rent ordinance); and
- Condominiums where the tenant moved in prior to January 1, 1996.

Public records alone may not determine unit type. If a public record is not consistent with the inspection report of the Housing Choice Voucher Inspector, the determination of unit type by the inspector will prevail. A Rent Board determination within the previous 12 months will prevail over all of the above.

For example, a public record lists a unit as a 2-bedroom, 1 bath unit but the Housing Choice Voucher Inspector identifies a 3-bedroom, 2-bath unit that is in accordance with NSPIRE Standards, then the unit will be recorded as a 3-bedroom, 2-bath unit.

A. Applicable Rent pursuant to Rent Control

Tenants who reside in units that must adhere to San Francisco's Rent Ordinance (see above) may pay more than 30% of their adjusted gross income in rent. The Rent Ordinance is triggered when the contract rent for a Section 8 unit goes above the applicable payment standard.

Limitations on Contract Rent Increases

The San Francisco Rent Board publishes the percentage that rents may rise in units that must adhere to the Rent Ordinance. The percentage is effective from March 1- February 28/29 of the following year and is based on 60% of the increase in the United States Department of Labor's Consumer Price Index (CPI) for the prior year. (San Francisco Administrative Code section 37.3(a)(1).

(1) Contract Rent Increasing within payment standard

The Rent Ordinance is not applicable where a Contract Rent is increasing and is still within the payment standard.

(2) Contract Rent Increase above payment standard

a. First time Contract Rent Increases above the payment standard

The first time a Contract Rent increases to an amount above its payment standard allows a landlord to receive the amount equal to the **maximum** payment standard for that unit size on the effective date of the increase multiplied by the Rent Board's applicable increase percentage on the new rent effective date and then adding those two numbers together.

For example: Tenant X is renting an apartment for $1400 whose payment standard is $1500 per month. The San Francisco Rent Board's permissible increase for that year is 1%. The calculation BEGINS with the maximum payment standard ($1500) and is multiplied by 1% (.01) to equal ($15.00). (1500x.01=15). Thus, the new maximum contract rent would be $1515.

b. Contract Rent Increase Requested where Contract Rent is already above the payment standard

When a rent increase is requested and **the contract rent** is already above the payment standard, the rent increase is limited to the Contract Rent amount at the time the request is made multiplied by the Rent Board's applicable increase percentage on the effective date of the rent increase and adding those two numbers together.

For example: Tenant X is renting an apartment whose maximum payment standard is $1500 per month. At the time the rent increase is requested, Tenant is already paying $1600 per month, which is $100 above the payment standard. The new contract rent amount would be calculated as follows:

Contract Rent Amount ($1600) x Applicable percentage increase (1% or .01) = $16.00. Thus $1600 + $16 = $1616

$1616 would be the new rent amount.

c. Contract Rent Increase due to "Banking"

"Banking" is a term that results from a landlord not increasing rent, or not increasing rent fully, during years for which the rent could have been increased and while the increases would have been subject to the rent increase limitations of the Rent Ordinance. The percentage increases not imposed are banked for use at a later time.

In order to qualify for "Banking", the following requirements must be met:

- The unit must fall under the Rent Ordinance;
- The unit must fall under the Rent Ordinance continuously;
- The increases can only be "Banked" for those years where the unit had a rent that was equal to or higher than its payment standard;

- Banked increases may only be imposed and effective twelve months after the unit fell within the Rent Ordinance's purview by the contract rent becoming equal to the payment standard or higher than the payment standard; and
- The rent increases may not be compounded. (San Francisco Administrative Code section 37.3(a)(2).)

For example: Landlord just learned about banking and has been a member of the HCV program for 10 years. Upon learning about "Banking", the Landlord asks for a rent increase allowable for the previous 10 years requesting the percentage increase for each year. The rent is as follows:

2005: $1000 (Rent under payment standard-no rent control)
2006: $1000 (Rent under payment standard-no rent control)
2007: $1000 (Rent under payment standard-no rent control)
2008: $1000 (Rent under payment standard-no rent control)
2009: $1000 (Rent under payment standard-no rent control)
2010: $1000 (Rent under payment standard-no rent control)
2011: $1000 (Rent under payment standard-no rent control)
2012: $1000 (Rent under payment standard-no rent control)

Landlord learns that the HUD approved Payment Standard has increased to $1500. On February 1, 2013, the landlord requests a rent increase to $1500.

2013: Rent increases to $1500
2014: $1500
2015: $1500
2016: $1500

On July 15, 2016, the landlord requests a rent increase that includes all banked increases for the previous years. The following calculation must be done:

2014: 1.9%
2015: 1.9%
2016: 1%

Total 4.8%

1500 + (1500 x .048 = 72) = $1572

*The ONLY years that would be applicable here would be 2014-2015 because those are the only years where the landlord was entitled to a rent increase that has not yet been imposed and where the unit came within the purview of the Rent Ordinance by the contract rent being equal to or above the payment standard. 2016 does not constitute banking because it is the current year and will receive the regular allowed increase as reflected above.

The Authority will follow the Rent Board's calculation policy for rent controlled units. Thus, the Authority will go out three (3) decimal places when calculating new maximum rent increases. Where the third place is 5 or above, the Authority will round up the number to the second place. For example, $10.987 would become $10.99.

Housing Choice Voucher cannot increase rent for capital improvement costs or increased operating and maintenance expenses. These rent increases allowable under the Rent Ordinance do not apply to Housing Choice Voucher Landlords.

Rent Reasonableness

All contract rents are subject to the Authority's rent reasonableness. If there is a dispute between a rent amounts under rent reasonableness and the Rent Ordinance, the lower of the two shall be the new maximum contract rent.

For example: Tenant X is renting an apartment for $1000 (current rent) and the payment standard is ($1200). Owner requests a rent increase to $1,100. The maximum approved rent is $1100.

$1,000 (Current Rent); $1,200 (Payment Standard); $1,100 (Owner Request); $1,350 (Rent Reasonableness)

- Maximum Approved Rent = $1,100 (Owner Request)

The Authority will determine whether the requested increase is reasonable within 30 calendar days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rent adjustments will be effective the first of the month following 60 days after the Authority's receipt of the owner's request. Rent increases requested by the landlord cannot occur more than once per year (12 months) and only if the unit has passed NSPIRE inspection within the last 24 months.

If the Owner is requesting a change in the utility responsibilities, a new HAP and lease is required.

Authority- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the Authority 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

Authority to make a determination at any other time. The Authority may decide that a new determination of rent reasonableness is needed at any time.

Authority Policy

In addition to the instances described above, the Authority will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the Authority determines that the initial rent reasonableness

determination was in error or (2) the Authority determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

8-III.C. How Comparability is Established

Factors to Consider

HUD requires the Authority to take into consideration the factors listed below when determining rent comparability. The Authority 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 Comparable(s)

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that impose rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d) (3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent- controlled by local ordinance.

Note: Notice PIH 2011-46, issued August 17, 2011, and 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 Authority's 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 Authority information regarding rents charged for other units on the premises.

8-III.D The Authority's Rent Reasonableness Methodology

How Market Data Is Collected

Authority Policy

The Authority will independently, or through third-party providers, collect and maintain a sufficient database of unassisted market rent data to perform rent reasonableness determinations. The Authority or its third-party provider will collect and maintain a large enough sample of comparable units and enough unit-specific data (unit age, location, condition, market area, structure type, amenities, etc.) to ensure that the rent reasonableness determination are accurate. Potential data sources include newspapers, realtors, market surveys, inquiries of owners, web-based rental systems, and other available sources. The rent reasonableness process will make appropriate rental rate adjustments for rental concessions (if applicable) and utility rates and responsibilities.

How Rents Are Determined

Authority Policy

The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable unassisted units within the City and County of San Francisco or up-to a 3-mile radius. If no comparable units can be found within a 3-mile radius, the comparable will be increased by one mile up to a 10-mile radius of the to-be assisted (subject) unit until a comparable is located. The Authority will use an automated process that selects at least two (2) units that most closely match the proposed unit's description based on structure, size, year built, utilities, amenities, quality, location, and maintenance. The Authority will adjust rents based on market data. The proposed unit's rent will be the lesser of the proposed rent or the adjusted comparable rent.

Housing services are not typically provided in the housing tenant-based program. Therefore, the Authority will not evaluate this element unless specifically requested by the family or owner and is reflected in the lease. In the event of such request, and for project-based units, the Authority will utilize the automated process to establish the average rent and independently evaluate the service component to establish the final rent.

The Authority will notify the owner of the rent the Authority can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area prior to the execution of the Housing Assistance Payment (HAP) Agreement or

Agreement to Enter into a Housing Assistance Payment Contract (AHAP). The Authority will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The Authority will respond to the Owner's data within 15 calendar days of receipt and has full discretion to apply or deny the information provided in the final rent comparable study.

EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS RELATED TO HOUSING QUALITY

Note: This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. For more detailed information see the following documents:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing.
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00).

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

(1) *Sanitary Facilities*. The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.

(2) *Food Preparation and Refuse Disposal*. The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.

Authority Policy

SRO units are required to have a microwave and refrigerator in the unit and/or an adequate community kitchen. Adequate is defined by the Authority as one stove and one refrigerator for every 6 persons.

(3) *Space and Security*. The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.

(4) *Energy conservation items*. The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.

(5) *Illumination and Electricity*. The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet NSPIRE standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.

(6) *Structure and Materials*. Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.

(7) *Indoor Air*. Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family's needs. However, if screens are present, they must be in good condition.

(8) *Sanitary Conditions*. The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.

(9) *Neighborhood conditions*. Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

CHAPTER 9: GENERAL LEASING POLICIES

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for the Authority to assist a family in a particular dwelling unit, or execute a Housing Assistance Payments (HAP) contract with the owner of a dwelling unit, the Authority must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 C.F.R. 982.305(a)]
- The unit must be inspected by the Authority and meet the NSPIRE [24 C.F.R. 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 C.F.R. 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 C.F.R. 982.305(a)]
- The owner must be an eligible owner, approvable by the Authority, with no conflicts of interest [24 C.F.R. 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 C.F.R. 982.305(a)]

9-I.A. Tenant Screening

The Authority has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 C.F.R. 982.307(a)(1)].

The Authority may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of the Authority's policies with regard to screening applicant families for program eligibility [24 C.F.R. 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before Authority approval of the tenancy, the Authority must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 C.F.R. 982.307(a)(2)]. The Authority must also inform the owner or manager or their responsibility to comply with all applicable VAWA requirements [42 U.S.C. § 14043e-11: 24 CFR part 5, subpart L; 24 CFR part 982].

The Authority must provide the owner with the family's current and prior address (as shown in the Authority records); and the name and address (if known to the Authority) of the landlord at the family's current and prior address. [24 C.F.R. 982.307 (b)(1)].

The Authority is permitted, but not required, to offer the owner other information in the Authority's possession about the tenancy history or drug trafficking of family members [24 C.F.R. 982.307(b)(2)].

The Authority's policy on providing information to the owner must be included in the family's briefing packet [24 C.F.R. 982.307(b)(3)].

The Authority may not disclose to the owner any confidential information provided to the Authority by the family as part of VAWA documentation, or in relation to any other VAWA related matter, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking unless the disclosure is requested or consented to in writing by the individual that provided the information in a time limited release [24 CFR 5.2007(c)(2)].

Authority Policy

The Authority will not screen applicants for family behavior or suitability for tenancy. The Authority will not provide additional screening information to the owner.

9-I.B. Requesting Tenancy Approval

[Form HUD-52517]

After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request the Authority to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the Authority:

- Completed Request for Tenancy Approval (RTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the Authority to determine whether to approve the assisted tenancy in this unit.

Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the Authority has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

Authority Policy

- The RTA must be signed by both the family and the owner.

- The owner may submit the RTA on behalf of the family.
- Completed RTA (including the proposed dwelling lease) must be submitted electronically by e-mail or as hard copies, in-person, by mail, or by fax.
- The family may not submit, and the Authority will not process, more than one (1) RTA at a time.

When the family submits the RTA the Authority will review the RTA for completeness.

If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, the Authority will notify the family and the owner of the deficiencies.

Missing information and/or missing documents may only be accepted as hard copies, in-person, by mail, or by fax. The Authority may accept missing information over the phone following the oral verification polices discussed in Chapter 7.

When the family submits the RTA and proposed lease, the Authority will also review the terms of the RTA for consistency with the terms of the proposed lease.

- If the terms of the RTA are not consistent with the terms of the proposed lease, the Authority will notify the family and the owner of the discrepancies.
- Corrections to the terms of the RTA and/or the proposed lease will only be accepted as hard copies, in-person, by mail or by fax. The Authority will not accept corrections by phone.

Because of the time sensitive nature of the tenancy approval process, the Authority will attempt to communicate with the owner and family by phone, fax, or e-mail. The Authority will use mail when the parties cannot be reached by phone, fax, or e-mail.

9-I.C. Owner Participation

The Authority does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the Authority may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which the Authority must disapprove an owner. No owner has a right to participate in the HCV program [24 C.F.R. 982.306(e)].

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

9-I.D. Eligible Units

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the Authority's jurisdiction. This includes the dwelling unit they

are currently occupying.

Ineligible Units [24 C.F.R. 982.352(a)]

The Authority may not assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

Authority-Owned Units [24 C.F.R. 982.352(b)]

Otherwise eligible units that are owned or substantially controlled by the Authority issuing the voucher may also be leased in the voucher program. In order for an Authority-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the Authority must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select an Authority- owned unit without any pressure or steering by the Authority.

The Authority does not have any eligible Authority-owned units available for leasing under the voucher program.

Special Housing Types [24 C.F.R. 982 Subpart M]

HUD regulations permit, but do not generally require, the Authority to permit families to use voucher assistance in a number of special housing types in accordance with the specific requirements applicable to those programs. These special housing types include Single Room Occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option. See Chapter 15 for specific information and policies on any of these housing types that the Authority has chosen to allow.

The regulations do require the Authority 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 C.F.R. 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 [24 C.F.R. 982.305 and 24 C.F.R. 982.401]

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's 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 NSPIRE inspection at initial lease-up.

Unit Size

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable NSPIRE space requirements [24 C.F.R. 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

Rent Reasonableness [24 C.F.R. 982.305 and 24 C.F.R. 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 C.F.R. 982.508]

Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the family share cannot exceed 40 percent of the family's adjusted monthly income. The term "family share" refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the unit equals the family share. See Chapter 6 for a discussion of calculation of gross rent, the use of payment standards, and calculation of family income, family share of rent and HAP.

9-I.E. Lease and Tenancy Addendum

The family and the owner must execute a written dwelling lease agreement for the

assisted unit. This written lease is a contract between the tenant family and the owner; the Authority 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 C.F.R. 982.308(a)].

Lease Form and Tenancy Addendum [24 C.F.R. 982.308]

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease for the assisted tenants is in such standard form.

All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

Authority Policy

The Authority does not provide a model or standard dwelling lease for owners to use in the HCV program.

Lease Information [24 C.F.R. 982.308(d)]

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, and any other information needed to identify the contract unit);
- The term of the lease (initial term and any provisions for renewal);
- The amount of the monthly rent to owner;
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

Term of Assisted Tenancy

The initial term of the assisted dwelling lease must be for at least one year [24 C.F.R. 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit the Authority to approve a shorter initial lease term if certain conditions are met.

Authority Policy

The Authority will approve an initial lease term of one (1) year.

The PHA may approve a shorter initial lease term if it would improve housing opportunities for the tenant and such shorter term is the prevailing local market practice.

During the initial term of the lease, the owner may not raise the rent to owner [24 C.F.R. 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be stated in the dwelling lease if they exist.

The Authority 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 C.F.R. 982.309(b)].

Security Deposit [24 C.F.R. 982.313 (a) and (b)]

The owner may collect a security deposit from the tenant. The Authority 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 Authority chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

Authority Policy

The Authority is not responsible for calculating the security deposit amount due to owner. If it comes to the Authority's attention that the security deposit is an amount greater than that allowable by local, state or federal law, it will be brought to the attention of the owner and a HAP will not be signed until corrected.

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 Authority's housing assistance payments to the owner [24 C.F.R. 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 C.F.R. 982.510(c)].

Authority Policy

The Authority 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 (including storage and/or parking) that are customarily provided to unassisted families as part of the dwelling lease with those families or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services

customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services (including storage and/or parking) that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non- lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services (including storage and/or parking) may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

Authority's Review of Lease

The Authority will review the dwelling lease for compliance with all applicable requirements.

Authority Policy

If the dwelling lease is incomplete or incorrect, the Authority will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, e- mail, or by fax. The Authority will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, the Authority will attempt to communicate with the owner and family by phone, fax, or e- mail. The Authority will use mail when the parties can't be reached by phone, fax, or e-mail.

The Authority is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the Authority determines that the lease does not comply with State or local law [24 C.F.R. 982.308(c)].

Authority Policy

The Authority will not review the owner's lease for compliance with state/local law.

9-I.F. Tenancy Approval

[24 C.F.R. 982.305]

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the Authority 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 Authority must ensure that all required actions and determinations, discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the Authority and meets the 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 unit must is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed 40 percent of the family's monthly adjusted income [24 C.F.R. 982.305(a)]; the owner is an eligible owner, not disapproved by the Authority, with no conflicts of interest [24 C.F.R. 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information [24 C.F.R. 982.305(b)].

Authority Policy

The Authority will complete its determination within 15 calendar days of receiving all required information.

If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with the Authority, the Authority will obtain corrected copies of the RTA and proposed lease, signed by the family and the owner.

Corrections to the RTA/proposed lease will only be accepted as hard copies, in-person, by mail, e-mail, or by fax. The Authority will not accept corrections over the phone.

If the Authority determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. The Authority will instruct the owner and family of the steps that are necessary to obtain approval of the tenancy.

Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), the Authority 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 C.F.R. 982.305]

The HAP contract is a written agreement between the Authority and the owner of the dwelling unit. Under the HAP contract, the Authority agrees to make housing assistance payments to the owner on behalf of the family, and the owner agrees to comply with all program requirements as stated in the HAP contract.

The HAP contract form is prescribed by HUD.

If the Authority has given approval for the family of the assisted tenancy, the owner and the Authority must execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 C.F.R. 982.451(a)(2)].

The Authority 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 Authority 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 Authority 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 Authority will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

Any HAP contract executed after the 60-day period is void, and the Authority may not pay any housing assistance payment to the owner.

Authority Policy

Owners who have not previously participated in the HCV program may be required to attend a meeting with the Authority in which the terms of the Tenancy Addendum and the HAP contract will be explained. The Authority may waive this requirement on a case-by-case basis, if it determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCV program.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the Authority. The Authority will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the Authority will execute the HAP contract. The Authority will not execute the HAP contract until the owner has submitted IRS form W-9. The Authority will ensure that the owner receives a copy of the executed HAP contract.

Any HAP contract executed after the 60-day period is void, and the Authority may not pay any housing assistance payment to the owner. The process for HAP execution will recommence after the 60-day time period has expired.

See Chapter 13 for a discussion of the HAP contract and contract provisions.

9-I.H. Changes in Lease or Rent

[24 C.F.R. 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the Authority a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, Authority approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, voucher assistance in the unit shall not be continued unless the Authority has approved a new tenancy in accordance with program requirements and has executed a new HAP contract with the owner. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances;
- Changes in lease provisions governing the term of the lease;
- The family moves to a new unit, even if the unit is in the same building or complex.

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

Where the owner is changing the amount of the rent to owner, the owner must notify the Authority at least 60 days before any such changes go into effect [24 C.F.R. 982.308(g)(4)]. The Authority will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonable standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase or terminate the tenancy in accordance with the terms of the lease and any other applicable federal, state, and local laws.

No rent increase is permitted during the initial term of the lease [24 C.F.R. 982.309(a)(3)].

CHAPTER 10:
MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

Freedom of housing choice is a hallmark of the Housing Choice Voucher (HCV) program. HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and Authority policies governing moves within or outside the Authority's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the Authority's HCV program, whether the family moves to another unit within the Authority's jurisdiction or to a unit outside the Authority's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the Authority's jurisdiction. This part also covers the special responsibilities that the Authority has under portability regulations and procedures.

PART I: MOVING WITH CONTINUED ASSISTANCE

10-I.A. Allowable Moves

[*24 CFR 982.354(b)*; *24 CFR 982.551(f) and (g)*]

A family may move to a new unit if:

1. The assisted lease for the old unit has terminated. This includes a termination because: (i) the Authority has terminated the HAP contract for the owner's breach; or (ii) the lease for the tenant's unit has been terminated by mutual agreement of the owner and the tenant.

   Authority Policy

   If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give the Authority a copy of the termination agreement.

2. The owner has given the tenant (i) a notice to vacate, (ii) has commenced an action to evict the tenant, or (iii) has obtained a court judgment or other process allowing the owner to evict the tenant.

   Authority Policy

   The family must give the Authority a copy of any owner eviction notice.

3. The tenant has given notice of lease termination (if the tenant has a right to terminate the lease on notice to the owner, for the owner breach or otherwise).

   Authority Policy

   If the family terminates the lease on notice to the owner, the family must give the Authority a copy of the notice at the same time.

4. The family or a member of the family, is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L (Protection for Victims of VAWA violence/abuse), and the move is needed to protect the health or safety of the family or family member, or if any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.

   The Authority may not terminate assistance if the family, with or without prior notification to the Authority, moves out of a unit in violation of the lease, if the move occurred to protect the health or safety of a family member who is the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed that they were threatened with imminent harm from further violence if they remained in the dwelling unit. However, any family member that has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move is not required to believe that they were threatened with imminent harm from further violence if they remained in the dwelling unit.

   Authority Policy

   If a family requests permission to move with continued assistance based on a claim that the move is necessary to protect the health or safety of a family

member who is or has been the survivor of VAWA violence/abuse the Authority will request documentation in accordance with section 2-IV of this plan.

The Authority 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 Authority will document the waiver in the family's file.

The Authority has adopted an emergency referral plan, which is included in Exhibit 2-4 of this Plan.

In addition to the four statutorily allowable moves mentioned above, the Authority allows moves with continued assistance in the following additional circumstances:

Violation of space standards [24 CFR 982.403].

If the Authority 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, the Authority must issue the family a new voucher, and the family and Authority must try to find an acceptable unit as soon as possible.

If an acceptable unit is available for rental by the family, the Authority 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 ends on the last day of the month after the month the Authority gives notice to the owner (i.e. if the Authority notifies the family and owner on May 10th, the HAP contract will terminate on June 30th).

10-I.B. Restrictions on Moves

[24 CFR 982.354 (c) and (e)]

Denial of Moves

HUD regulations permit the Authority to deny a family permission to move under the following conditions:

Insufficient Funding [24 CFR 982.354(e)(1)]

The Authority may deny the family permission to move if the Authority does not have sufficient funding for continued assistance.

Authority Policy

The Authority will deny a family permission to move on grounds that the Authority does not have sufficient funding for continued assistance if: (a) the move is initiated by the family, not the owner or the Authority; (b) the Authority can demonstrate that the move will, in fact, result in higher subsidy costs; (c) the Authority 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 Authority 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 Authority's jurisdiction. The Authority, 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 Authority's jurisdiction and outside under portability, the Authority will not deny a move due to insufficient funding if the Authority previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. The Authority will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

If the Authority denies a family request to move due to insufficient funds, it will mail the family a letter stating that the denial is due to lack of funding and the family's request will remain open for twelve (12) months. The Authority may not subsequently admit any additional families to the voucher program before it assists the family seeking to move.

Grounds for Denial or Termination of Assistance [24 CFR 982.354(e)(2)]

At any time, the Authority may deny permission to move in accordance with [24 C.F.R. 982.552]. VAWA may require exceptions to these grounds for denial or termination of assistance for families where the grounds for denial or termination are made on the basis or as a direct result of the fact that the tenant has been a survivor of VAWA violence/abuse [24 CFR 5.2005(b); 24 CFR 982.552(c)(2)(v)].

Authority Policy

If the Authority has grounds for denying or terminating a family's assistance, the Authority will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances. *Refer to section 2-IV. for VAWA provisions.*

Restrictions on Elective Moves [24 CFR 982.354(c)]

Consistent with applicable civil rights laws and regulations, the Authority is permitted to establish policies that:

- Prohibit any move by the family during the initial lease term; and
- Prohibit more than one move by the family during any one-year period

However, such prohibitions do not apply when the family or a member of the family is or has been the survivor of VAWA violence/abuse and the move is needed to protect the health or safety of the family or family member or if any family member has been the survivor of a sexual assault that occurred on the premises during the 90 calendar day period preceding the family's request to move.

Authority Policy

The Authority will deny the family permission to make an elective move during the family's initial lease term. This policy applies to all assisted families residing in the Authority's jurisdiction and to moves within the Authority's jurisdiction or outside it under portability.

The Authority will consider exceptions to these policies for the following reasons:

- to protect the health or safety of a family member (e.g., lead-based paint hazards, VAWA violence/abuse, and witness protection programs)
- to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or
- to address an emergency situation over which a family has no control.

In addition, the Authority 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

[24 CFR 982.354(d); 24 CFR 982.5]

Notification

If a family wishes to move to a new unit, the family must notify the Authority and the owner before moving out of the old unit or terminating the lease on notice to the owner. A family is not required to provide notification of their move, if such move occurs to protect the health or safety of a family member who is or has been the survivor of VAWA violence/abuse. If the family wishes to move to a unit outside the Authority's jurisdiction under portability, the notice to the Authority must specify the area where the family wishes to move. The notices must be in writing.

Approval

Authority Policy

Upon receipt of a family's notification that it wishes to move, the Authority will determine whether the move is approvable in accordance with the regulations and policies set forth in sections 10-I.A. and 10-I.B. The Authority will notify the family in writing of its determination within 30 calendar days following receipt of the family's notification. Approval of VAWA emergency transfer requests will be made in accordance with the emergency transfer plan found in Exhibit 2-5.

Reexamination of Family Income and Composition

Authority Policy

For families approved to move to a new unit within the Authority's jurisdiction, the

Authority may 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 Authority's jurisdiction under portability, the Authority will follow the policies set forth in Part II of this chapter.

Voucher Issuance and Briefing

Authority Policy

For families approved to move to a new unit within the Authority's jurisdiction, the Authority will issue a new voucher within 15 calendar days of the Authority's written approval to move. A briefing may be required for these families. The Authority 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 their voucher term and in accordance with the lease and the Housing Assistance Payment Contract, the family may lose its assistance.

For families moving into or families approved to move out of the Authority's jurisdiction under portability, the Authority will follow the policies set forth in Part II of this chapter.

Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the Authority may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

PART II: PORTABILITY

10-II.A. Overview

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The PHA that issues the voucher is called the initial PHA. The PHA that has jurisdiction in the area to which the family wants to move is called the receiving PHA.

The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA provides all housing services for the family and bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance with its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA via e-mail or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request [Notice PIH 2016-09].

PHAs commonly act as both the initial and receiving PHA because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B. when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C. when it is acting as the receiving PHA for a family.

Authority Policy

The Authority will use e-mail, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

10-II.B. Initial PHA Role

[24 CFR 982.355 (c); PIH Notice 2016-09]

Administration by Initial and Receiving PHA:

a. The receiving PHA must determine the family unit size for the family and base its determination on the subsidy standards of the receiving PHA [CFR 982.355 part (c)(12)].

b. 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 notify the initial PHA of any extensions granted to the term of the voucher [CFR 982.355 part (c)(14)].

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 C.F.R. 982.353(b)]. If more than one PHA administers a

voucher program in the area to which the family is moving, the family selects the receiving PHA. The initial PHA must provide the family with the contact information for all of the receiving PHAs that serve the area. If the family requests it, the initial PHA must select the receiving PHA. If the initial PHA is selecting the receiving PHA per the family's request, the initial PHA is not required to provide the contact information for all receiving PHAs in the area

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. HUD regulations and Authority Policy determine whether a family qualifies.

Applicant Families

Under HUD regulations, most applicant families qualify to lease a unit outside the Authority's jurisdiction under portability. However, HUD gives the Authority 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.

Authority Policy

In determining whether or not to deny an applicant family permission to move under portability because the Authority 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.

The participant/applicant must remain in the Authority's jurisdiction for 12 months prior to porting out of the jurisdiction. The Authority will review requests for port outs for families who have been unable to secure housing in San Francisco within 90 days of receiving their voucher. The determination of whether the family can port outside of the jurisdiction will be made by the CEO or their designee.

In addition, the Authority may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

Participant Families

The initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease [24 CFR 982.353(b)]. VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a Survivor of VAWA violence/abuse and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit, or if any family member who has been the survivor of a sexual assault that occurred on the premises during the 90-calendar day period preceding the family's move.

Authority Policy

The Authority will determine whether a participant family may move out of the Authority'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 Authority 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

For a family that was not already receiving assistance in the PHA's HCV program, the initial PHA must determine whether the family is eligible for admission to the receiving PHA's HCV program. In determining income eligibility, the receiving PHA's income limits are used by the initial PHA. [24 CFR 982.355 (d)(9)].

If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2016-09].

Participant Families

If a family is a participant in the initial PHA's voucher program, income eligibility is not redetermined when the family moves to the receiving PHA program under portability procedures. [24 CFR 982.353(d)(2); 24 CFR 982.355(c)(9)].

Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

Authority 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.

If the family owes money to the Authority, they will not be allowed to port out to another jurisdiction until the debt is repaid. The Authority will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

Briefing

The regulations and policies on briefings set forth in Chapter 5 of this plan require the Authority to provide information on portability to all applicant families that qualify to lease a unit outside the Authority's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

Authority Policy

No formal briefing will be required for a participant family wishing to move outside the Authority's jurisdiction under portability. However, the Authority 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 Authority will provide the name, address, and phone number of the contact for the PHA in the jurisdiction to which they wish to move. The Authority will advise the family that they will be under the receiving PHA's policies and procedures, including subsidy standards and voucher extension policies.

Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the Authority will follow the regulations and procedures set forth in Chapter 5.

Authority Policy

Non-resident applicant families will be required to lease a unit within the City and County of San Francisco for at least one year prior to being eligible for portability.

This requirement does not apply if the family or a member of the family is or has been a survivor of VAWA violence/abuse, and the move is needed to protect the health or safety of the family or family member, or any family member who has been the survivor of a sexual assault that occurred on the premises during the 90–calendar-day period preceding the family's request to move.

A non-resident is defined to be when neither the household head nor spouse of an assisted family already had a "domicile" (legal residence) in the jurisdiction of the initial PHA at the time when the family first submitted an application for participation in the program to the initial PHA. Proof of residency must be reliable and may include: California's Driver's License with a San Francisco address, 12 consecutive bank statements, or school records with a San Francisco address. Lease agreements will not be used as the sole determining factor of residency and must be supported by utility bills or other reliable documentation that shows residency.

The Authority will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2). However, any exception to this policy is subject to Authority approval [24 CFR 982.353(c)(3)].

The Authority will allow applicants receiving a voucher through Foster Youth to Independence referrals to port out immediately, without leasing in the jurisdiction for at least 12 months.

For participating families approved to move under portability, the initial PHA will utilize the existing voucher with the existing voucher terms to be sent to the receiving PHA. Extension, if any, will be handled in accordance with the policies set forth in this Plan.

Preapproval Contact with the Receiving PHA

Prior to approving a family's request to move under portability, the initial PHA must contact the

receiving PHA via e-mail or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [Notice PIH 2016-09].

Authority Policy

The Authority will use e-mail, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

Initial Contact with the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA to expect the family [24 CFR 982.355(c)(7)]. This means that the initial PHA must contact the receiving PHA directly on the family's behalf and must also advise the family how to contact and request assistance from the receiving PHA [Notice PIH 2016-09].

Authority Policy

Because the portability process is time-sensitive, the Authority will notify the receiving PHA by phone, fax, or e-mail to expect the family. The Authority will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, e-mail address, and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The Authority will pass this information along to the family. The Authority will also ask for the name, address, telephone number, fax and e-mail of the person responsible for processing the billing information.

Sending Documentation to the Receiving PHA [Notice PIH 2016-09; 24 CFR 982.355 (c)(7)]

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out.
- A copy of the family's voucher signed by the participant and the PHA.
- 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.
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data.

Authority Policy

In addition to these documents, the Authority 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 a family self-sufficiency (FSS) program.

The Authority will notify the family in writing regarding any information provided to the receiving PHA [HCV GB, p. 13-3].

Initial Billing Deadline [Notice PIH 2016-09]

When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. The initial billing submission must be received by the initial PHA no later than 90 calendar days following the expiration date of the initial PHA's voucher. In cases where suspension of the term of the voucher will delay the initial billing submission, the receiving PHA must notify the initial PHA of the delayed billing before the billing deadline and document that the delay is due to the voucher term suspension. If the receiving PHA meets these requirements, the initial PHA must extend the billing deadline by 30 additional calendar days. If the initial PHA has not received the portability form within the new 30-calendar day deadline, the initial billing is late. The initial PHA is not required to honor a late billing submission. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.

Authority Policy

If the Authority has not received an initial billing notice from the receiving PHA by the deadline specified on form HUD-52665, it will contact the receiving PHA by phone, fax, or e-mail on the next business day. If the PHA reports that the family is not yet under HAP contract, the Authority will inform the receiving PHA that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. The Authority will send the receiving PHA a written confirmation of its decision by mail.

The Authority will allow an exception to this policy if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

Monthly Billing Payments [Notice PIH 2016-09]

If the receiving PHA is administering the family's voucher, the initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within 30 calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be received by the receiving PHA no later than the fifth (5th) business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

Authority Policy

The initial PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA that direct deposit is not acceptable to them.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family.

Denial or Termination of Assistance [24 CFR 982.355(c)(17)]

If the initial PHA has grounds for denying or terminating assistance for a portable family that has not been absorbed by the receiving PHA, the initial PHA may act on those grounds at any time. (For PHA policies on denial and termination, see Chapters 3 and 12, respectively.)

10-II.C. Receiving PHA Role

If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family.

The Authority provides assistance for families seeking to port into their jurisdiction as a result of a qualified VAWA emergency transfer [24 CFR 5.2005(e)(7)]. See Exhibit 2-5.

The receiving PHA's procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA's waiting list(s) is not used [24 CFR 982.355(10)]. However, the family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(12)], and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving PHA's voucher program.

Initial Contact with Family

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families [24 CFR 982.355(c)(8)].

If the voucher issued to the family by the initial PHA has expired, the receiving PHA does not process the family's paperwork but instead refers the family back to the initial PHA to determine if the initial PHA will extend the voucher. [24 CFR 982.355 (c)(13)].

When a portable family requests assistance from the receiving PHA, the receiving PHA must promptly inform the initial PHA whether the receiving PHA will bill the initial PHA for

assistance on behalf of the portable family or will absorb the family into its own program [24 CFR 982.355(c)(5)]. If the PHA initially bills the initial PHA for the family's assistance, it may later decide to absorb the family into its own program [Notice PIH 2012-42]. (See later under "Absorbing a Portable Family" for more on this topic.)

Authority Policy

Within 15 calendar days after a portable family requests assistance, the receiving PHA will notify the initial PHA whether it intends to bill the receiving PHA on behalf of the portable family or absorb the family into its own program.

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or an informal hearing [Notice PIH 2016-09].

Briefing

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's search [Notice PIH 2012-42].

Authority Policy

The Authority will not require the family to attend a briefing. The Authority will provide the family with a briefing packet (as described in Chapter 5) and, in an individual briefing, will orally inform the family about the Authority's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process. The Authority will suggest that the family attend a full briefing at a later date.

Income Eligibility and Reexamination

HUD allows the receiving PHA to conduct its own income reexamination of a portable family [24 C.F.R. 982.355(c)(4)]. However, the receiving PHA may not delay voucher issuance or unit approval until the reexamination process is complete unless the reexamination is necessary to determine that an applicant family is income eligible for admission to the program in the area where the family wishes to lease a unit [Notice PIH 2012-42]. The receiving PHA does not re-determine income eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(9)].

Authority Policy

For any family moving into its jurisdiction under portability, the Authority will conduct a new reexamination of family income and composition. However, the Authority will not delay issuing the family a voucher for this reason. Nor will the Authority delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the Authority cannot otherwise confirm that the family is income eligible for admission to the program in the area where the unit is located.

In conducting its own reexamination, the Authority will rely upon any verifications provided by the initial PHA to the extent that they (a) accurately

reflect the family's current circumstances and (b) were obtained within the last 120 days. Any new information may be verified by documents provided by the family and adjusted, if necessary, when third party verification is received.

Voucher Issuance

When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher [24 C.F.R. 982.355(c)(13)]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 C.F.R. 982.355(c)(6)].

Timing of Voucher Issuance

HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2012-42].

Authority Policy

When a family ports into its jurisdiction, the Authority 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 Authority will update the family's information when verification has been completed.

Voucher Term

The term of the receiving PHA's voucher may not expire before the term of the initial PHA's voucher [24 CFR 982.355(c)(13)].

Authority Policy

The term of the receiving PHA voucher may not expire before 30 calendar days from the expiration date of the initial PHA voucher. [24 CFR 982.355(c)(13)].

The receiving PHA may provide additional search time to the family beyond the expiration date of the initial PHA's voucher; however, if it does so, it must inform the initial PHA of the extension. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

The Authority generally will not extend the term of the voucher that it issues to an incoming portable family unless the Authority plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in section 5-II.E.

The Authority will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

Notifying the Initial PHA

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(8)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [24 C.F.R. 982.355(e)(5), Notice PIH 2012-42]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction [Notice PIH 2016-09].

Administering a Portable Family's Voucher

Initial Billing Deadline

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) (a) no later than 15 calendar days following the date the receiving PHA **executes** a HAP contract on behalf of the family **and** (b) in time that the notice will be **received** no later than 90 days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2016-09]. A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or e-mail.

Authority Policy

The Authority will send its initial billing notice by fax or e-mail, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing within 15 calendar days following the date the HAP contract is executed, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over leased) [Notice PIH 2016-09].

Ongoing Notification Responsibilities [Notice PIH 2016-09, HUD-52665]

Annual Reexamination

The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

Authority Policy

The Authority will send a copy of the updated HUD-50058 by regular mail at the same time the PHA and owner are notified of the reexamination results.

Change in Billing Amount

The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family as a result of:

- A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.);
- An abatement or subsequent resumption of the HAP payments;
- Termination of the HAP contract;
- Payment of a damage/vacancy loss claim for the family;
- Termination of the family from the program.

The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family in order to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be later than 15 calendar days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within 15 calendar days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification.

Late Payments [Notice PIH 2016-09]

If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between the PHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

Overpayments [Notice PIH 2012-42]

In all cases where the receiving agency has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2012-42.

Denial or Termination of Assistance

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.552(a)].

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 15 calendar days following the effective date of the termination of the billing arrangement [Notice PIH 2016-09].

Authority Policy

If the PHA elects to deny or terminate assistance for a portable family, the PHA will notify the initial PHA within 15 calendar 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

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that (a) the PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in over leasing [24 C.F.R. 982.355(d)(1), Notice PIH 2012-42].

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 C.F.R. 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, the receiving PHA must send an updated form HUD-52665 to the initial PHA no later than 15 calendar days following the effective date of the termination of the billing arrangement.

Authority 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.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 C.F.R. 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

Annual Updates of Form HUD-50058

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family. The initial PHA must continue paying the receiving PHA based on the last form HUD-50058 received, unless instructed otherwise by HUD. The initial PHA may seek absorption of the vouchers by following steps outlined in Notice PIH 2016-09.

CHAPTER 11: REEXAMINATIONS

The PHA is required to reexamine each family's income and composition at least annually, and to adjust the family's level of assistance accordingly. Interim reexaminations are also needed in certain situations. This chapter discusses both annual and interim reexaminations, and the recalculation of family share and subsidy that occurs as a result. HUD regulations and PHA 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 C.F.R. 982.516]

11-I.A. Overview

The PHA must conduct a reexamination of family income and composition at least annually for all income except fixed income which triennial reexaminations may be conducted. This includes gathering and verifying current information about family composition, income, and expenses.

Based on this updated information, the family's income and rent must be recalculated annually or for streamlined recertification's, by applying a verified cost of living adjustment (COLA) to fixed income annually for up to three (3) years. This part discusses the schedule for annual reexaminations and streamlined triennial recertification's for all households whose only source of income is fixed for all adult members and received from the Social Security Administration.

11-I.B Streamlined Annual Reexaminations
[24 C.F.R. 982.516(b)]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Authority Policy

The Authority will streamline the annual reexamination process by applying the verified COLA or interest rate to families where everyone in the household is receiving Social Security and SSI benefits. If verification of the COLA or rate of interest is not available, the PHA will obtain third- party verification of income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

11-I.C. Scheduling Annual Reexaminations

The PHA must establish a policy to ensure that the annual reexamination for each family is completed *within* a 12-month period and may require reexaminations more frequently [HCV GB p. 12-1].

Authority Policy

The Authority will begin the annual reexamination process at least 120 days in advance of its scheduled effective date. The Authority 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 the first day of the first calendar month after the new admission.

The Authority 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

Authority Policy

Notification of annual reexamination will be sent by first-class mail and will contain instructions on how to provide Authority the required information and its supporting documents. The Authority may conduct the annual reexamination in a variety of ways including but is not limited to: mail-in process, online process, in-person interview, or other method the Authority determines to be effective in evaluating family income and composition. In all cases, the Authority reserves the right to require an in-person interview where all adult family members must be present at any time.

If the family is unable to comply with the requirements set forth in the Authority's notice, the family must contact the Authority and request an accommodation or additional time to comply. Failure to contact the Authority or failure to meet the requirements as set-forth in the letter may result in termination of assistance.

Third party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter. An advocate, interpreter, or other assistant may assist the family in the interview or reexamination process.

11-I.D. Conducting Annual Reexaminations

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 [24 C.F.R. 982.551(b)].

Authority Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include an Authority-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documents or forms 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 15 calendar days of the appointment letter. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

At the annual reexamination, the Authority will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28]. If the Authority proposes to terminate assistance based on lifetime sex offender registration information, the Authority must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination [24 C.F.R. 5.903(f) and 5.905(d)]. (See Chapter 12).

The information provided by the family must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the PHA has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity;
- Age;
- Social security numbers;
- A person's disability status;
- Citizenship or immigration status.

If adding a new family member to the unit causes overcrowding according to the NSPIRE Standards *(see Chapter 8)*, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms [24 C.F.R. 982.403].

11-I.E. Determining Ongoing Eligibility of Certain Students

[24 C.F.R. 982.552(b)(5)]

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

If a student enrolled in an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be reexamined along with the income eligibility of the student's parents on an annual basis. In these cases, both the student and the student's parents must be income eligible for the student to continue to receive

HCV assistance.

If, however, a student in these circumstances is determined independent from his or her parents or is considered a *vulnerable youth* in accordance with 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 are receiving assistance on their own, separately from their parents.

Authority Policy

During the annual reexamination process, the Authority will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 C.F.R. 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents or is considered a *vulnerable youth* based on the policies in Sections 3-II.E. and 7-II.E., the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), the Authority will process a reexamination in accordance with the policies in this chapter.

11-I.F. Effective Dates

Authority 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 Authority 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 Authority 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 Authority 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 Authority.
- 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 Authority by the date specified, and this delay prevents the Authority from completing the reexamination as scheduled.

PART II: INTERIM REEXAMINATIONS
[24 C.F.R. 982.516]

11-II.A. Overview

Family circumstances may change 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, p. 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 PHA policies describing what changes families are required to report, what changes families may choose to report, and how the PHA will process both PHA- and family- initiated interim reexaminations.

11-II.B. Changes in Family and Household Composition

The family is required to report all changes in family composition. The PHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition. However, due to family obligations under the program, the PHA has limited discretion in this area.

Authority Policy

The family is required to report all changes in family income and composition within 15 calendar days of the change. The Authority will conduct interim reexaminations to account for any changes in household composition. The Authority will conduct an interim re-examination for changes in income that occur between annual reexaminations.

New Family Members Not Requiring PHA Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require PHA approval. However, the family is required to promptly notify the PHA of the addition [24 C.F.R. 982.551(h)(2)].

Authority Policy

The family must inform the Authority of the birth, adoption, or court-awarded custody of a child within 30 calendar days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 C.F.R. 982.551(h)(2)] or other household member (live-in aide or foster child) [24 C.F.R. 982.551(h)(4)].

When any new family member is added, the PHA must make appropriate adjustments in the family share of the rent and the HAP payment at the effective date of either the annual or interim reexamination [24 C.F.R. 982.516(e)(2)].

If a change in family size causes a violation of NSPIRE space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rent by the family, the PHA must terminate the family's HAP contract in accordance with its terms [24 C.F.R. 982.403].

Authority Policy

Families must request Authority approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 30 consecutive days or 90 cumulative days within a 12- month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the Authority prior to the individual moving into the unit.

Additions may be made in writing by completing and submitting an add request form in the following circumstances at the sole discretion of the Authority:

1. **Legal guardianship** of a minor granted to a current family member.
2. As result of **marriage** by a current family member.
3. As result of a **civil union** created under any state law by a current family member.
4. As a result of a registered **domestic partnership** under any state law by a current family member.
5. As a result of a returning family member from **active military service**.
6. As a result of a returning family member who had previously been included in the same voucher or, if previously in a San Francisco public housing program that converted to HCV through RAD or the Accelerated Conversion program, on the same lease.
7. As a result of returning or placement of a **parent to an existing minor** in the family.
8. As a result of returning or placement of **elderly parents or grandparents** to be cared for by current family members as certified by a medical professional.
9. As a result of returning or placement of a **foster child(ren) or foster adult(s)** if their presence would not result in a violation of NSPIRE space standards according to 24 C.F.R. § 982.401.

The Authority will not approve the addition of a new family or household member unless the individual meets the Authority's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

The Authority will not approve the addition of a foster child or foster adult if it will cause a violation of NSPIRE subsidy standards.

If the Authority determines an individual meets the Authority's eligibility criteria and documentation requirements, the Authority will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to NSPIRE standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

If the Authority determines that an individual does not meet the Authority's eligibility criteria or documentation requirements, the Authority will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The Authority will make its determination within 15 calendar days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

Families must promptly notify the PHA if any family member no longer lives in the unit [24 C.F.R. 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 C.F.R. 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit.

Authority Policy

If a household member, live-in aide, foster child or foster adult ceases to reside in the unit, the family must inform the PHA within 15 calendar days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

The resident shall provide satisfactory written proof that the household member, live-in aide, foster child or foster adult no longer lives at the Residence. Such proof includes, but is not limited to, proof of forwarding address from the U.S. Post Office, copies of a new lease agreement, utility bills or rent receipt for a new residence.

11-II.C. Changes Affecting Income or Expenses

Interim reexaminations can be scheduled either because the PHA has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the PHA may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

PHA-Initiated Interim Reexaminations

PHA-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the PHA. They are not scheduled because of changes reported by the family.

Authority Policy

The Authority will conduct interim reexaminations in each of the following instances:

- If the family has reported zero income, the Authority will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.
- If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g., seasonal or cyclic income), the Authority will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.
- If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the Authority will conduct an interim reexamination.
- If the Authority determined and verified the family has unreported income.
- If the Authority determined and verified a family member is receiving double subsidy.
- If the Authority determined and verified there is a deceased household member.

The Authority 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.

Required Reporting

HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.

Authority Policy

Families are required to report all increases in earned income, including new employment, within 15 calendar days of the date the change takes effect.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 C.F.R. 982.516(b)(2)]. The Authority must process the request if the family reports a change that will result in a reduced family income [HCV GB, p. 12-9].

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 [24 C.F.R. 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

Families must report changes in income or expenses within 15 calendar days of the date the change takes effect.

11-II.D. Processing the Interim Reexamination

Method of Reporting

Authority Policy

The family must notify the Authority of all changes in writing and provide all supporting documentation.

The family will not be required to attend an interview for an interim reexamination. However, if the Authority determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the Authority will determine the documentation the family will be required to submit. The family must submit any required information or documents within 15 calendar days of receiving a request from the Authority. This time frame may be extended for good cause with Authority approval. The Authority will accept required documentation by mail, by fax, or in person.

Effective Dates

The PHA must establish the time frames in which any changes that result from an interim reexamination will take effect [24 C.F.R. 982.516(d)]. The changes may be applied either retroactively or prospectively, depending on whether there is to be an increase or a decrease in the family share of the rent, and whether the family reported any required information within the required time frames [HCV GB, p. 12-10].

Authority Policy

If the family share of the rent is to ***increase***:

- The increase 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***:

- Interim requests will take effect on the first of the month after all required documentation is submitted and verified.
- Interim requests as a result of a deceased family member will be processed effective the first of the month following the date the member died.

If the family causes a delay in processing the annual reexamination, *increases* in the tenant rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the family causes a delay in processing the annual reexamination, decreases in the tenant 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 Authority by the date specified, and this delay prevents the Authority from completing the reexamination as scheduled.

PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

11-III.A. Overview

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 [24 C.F.R. 982.516(d)(2), HCV 12-6 and 12-10]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

11-III.B. Changes in Payment Standards and Utility Allowances

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the PHA's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

Payment Standards [24 C.F.R. 982.505]

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located [HCV GB, p. 12-5]. See Chapter 6 for information on how to select the appropriate payment standard.

When the PHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

If the PHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:

- If the payment standard amount has increased, the *increased* payment standard will be applied at the first annual reexamination following the effective date of the increase in the payment standard.
- If the payment standard amount has *decreased*, during the term of a HAP contract, the PHA is not required to reduce the payment standard as the HAP contract remains in effect. At the family's second annual reexamination, the PHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Chapter 6 for the PHA's policy on decreases in the payment standard).

If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

Subsidy Standards [24 C.F.R. 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 C.F.R. 982.517(d)]

The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or in the PHA's utility allowance schedule [HCV GB, p. 12-5].

Chapter 16 discusses how utility allowance schedules are established.

When there are changes in the utility arrangement with the owner, the PHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

At reexamination, the PHA must use the PHA current utility allowance schedule [24 C.F.R. 982.517(d)(2)].

Authority Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination after the allowance is adopted.

11-III.C. Notification of New Family Share and HAP Amount

The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:

- The amount and effective date of the new HAP payment;
- The amount and effective date of the new family share of the rent;
- The amount and effective date of the new tenant rent to owner.

The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 C.F.R. 982.555(a)(1)(i)] (see Chapter 16).

Authority 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 also will state the procedures for requesting an informal hearing.

11-III.D. Discrepancies

During an annual or interim reexamination, the PHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the 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

HUD regulations specify mandatory and optional grounds for which the Authority can terminate a family's assistance. They also specify the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter describes the policies that govern mandatory and optional terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part describes the various circumstances under which assistance under the program can be terminated by the family or by the Authority.

Part II: Approach to Termination of Assistance. This part describes the policies and the process that the Authority will use in evaluating decisions on whether to terminate assistance due to actions or inactions of the family where termination is an option. It specifies the alternatives that the Authority may consider in lieu of termination, the criteria the Authority will use when deciding what action to take, and the steps the Authority must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part describes the HUD policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. Overview

HUD requires the Authority to terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income. HUD permits the Authority to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program and terminate their HCV assistance at any time by notifying the Authority.

12-I.B. Family No Longer Requires Assistance

[24 C.F.R. 982.455]

As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by the Authority is reduced to zero, the family's assistance terminates automatically 180 days after the last HAP payment.

Authority 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 Authority 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 Authority terminate housing assistance payments on behalf of the family at any time.

Authority Policy

The request to terminate assistance should be made in writing and signed by the head of household, and spouse or co-head if applicable. Before terminating the family's assistance, the Authority will follow the notice requirements in Section 12-II.F.

12-I.D. Mandatory Termination of Assistance

HUD requires the Authority to terminate assistance in the following circumstances.

Eviction [24 C.F.R. 982.552(b)(2), Pub.L. 109-162]

The Authority must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incidents of actual or threatened violence, dating violence, sexual assault, 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.

Authority Policy

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the Authority will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in

Section 12-II.C. and other factors as described in Sections 12-II.E. Upon consideration of such alternatives and factors, the Authority may, on a case-by-case basis, choose not to terminate assistance.

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

Failure to Provide Consent [24 C.F.R. 982.552(b)(3)]

The Authority must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 C.F.R. 982.552(b)(4) and 24 C.F.R. 5.514(c)]

The Authority must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the Authority, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Disclose and Document Social Security Numbers
[24 C.F.R. 5.218(c), Notice PIH 2012-10]

The Authority 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 Authority 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 Authority 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 Authority determined the family to be noncompliant.

Authority Policy

The Authority 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 C.F.R. 982.553(b)(1)(ii)]

The Authority 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 Authority 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 Authority must immediately terminate assistance for the household member.

In this situation, the Authority must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the Authority must terminate assistance for the household.

Failure of Students to Meet Ongoing Eligibility Requirements
[24 C.F.R. 982.552(b)(5) and FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with his/her parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the Authority must the terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and Authority policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

Death of the Sole Family Member [24 C.F.R. 982.311(d) and Notice PIH 2010-9]

The Authority must immediately terminate program assistance for a deceased single member family. The Authority will continue to respond to pending add requests that have been submitted to the Authority prior to or on the date of death. The pending request must be date stamped by the Authority. Any requests submitted after death or without a date stamp will receive an automatic denial.

12-I.E. Mandatory Policies and Other Authorized Terminations

Mandatory Policies [24 C.F.R. 982.553(b) and 982.551(l)]

HUD requires the Authority to establish policies that permit the Authority to terminate assistance if the Authority 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 [24 C.F.R. 966.4(l)(5)(i)(B)]

Authority Policy

The Authority 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.

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

The Authority 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. A pattern of illegal drug use means more than one incident of any use of illegal drugs during the previous twelve months.

The Authority 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 of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the Authority 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 Authority may, on a case-by-case basis, choose not to terminate assistance.

The PHA will not terminate assistance on the basis of or as a direct result of

the fact that the assisted tenant is or has been the victim of domestic violence, dating violence, sexual assault, or stalking. See section 3-III.G. for further discussion of relevant factors for consideration under VAWA.

Drug-Related and Violent Criminal Activity [24 C.F.R. 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.

Authority Policy

The Authority 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 Authority will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the Authority 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 Authority may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance [24 C.F.R. 982.552(c)]

HUD permits the Authority to terminate assistance under a number of other circumstances. It is left to the discretion of the Authority whether such circumstances in general warrant consideration for the termination of assistance.

Authority Policy

The Authority **will not** terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency program.

The Authority **will** terminate a family's assistance if:

- Any family member has been evicted from federally assisted housing in the last five years.
- Any family member who has been arrested or convicted of illegal possession

and/or use of a firearm or aggravated assault weapon in violation of federal, state, or local criminal or civil laws.

- Any family member who has been convicted of child molestation within the past five years.
- Any family member who has been convicted of arson within the past five years.
- Any Authority has ever terminated assistance under the program for any member of the family.
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program pursuant to federal or state law.

The Authority **may** terminate a family's assistance if:

- The family currently owes rent or other amounts to any Authority in connection with the HCV, Certificate, Moderate Rehabilitation, or other public housing programs.
- A family member has engaged in or threatened violent or abusive behavior toward Authority personnel.
- Abusive or violent behavior towards Authority 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.
- The family refuses to enter into a repayment agreement with the Authority for past debt owed.
- The family has breached the terms of a repayment agreement entered into with the Authority.
- The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related Authority policies.

In making its decision to terminate assistance, the Authority 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 Authority may, on a case-by-case basis, choose not to terminate assistance.

An arrest must be substantiated by a supporting document of criminal activity. Arrest records or police reports will not be used as the sole basis for terminating assistance.

Family Absence from the Unit [24 C.F.R. 982.312]

The family may be absent from the unit for brief periods. The Authority must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason.

Absence in this context means that no member of the family is residing in the unit.

Authority Policy

If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Chapter 13.

Background Checks

Authority Policy

The Authority may conduct a criminal background check at any time during a participant or household members tenancy.

Lifetime Sex Offender Registration Requirement

Should the Authority discover that a member of an assisted household was subject to a lifetime sex offender registration requirement at admission and was erroneously admitted after June 25, 2001, the Authority must immediately terminate assistance for the household member.

In this situation, the Authority must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the Authority must terminate assistance for the household [PIH Notice 2012-28].

Insufficient Funding [24 C.F.R. 982.454]

The Authority may terminate HAP contracts if the Authority determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

Authority Policy

The Authority will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the Authority determines there is a shortage of funding, prior to terminating any HAP contracts, the Authority will determine if any other actions can be taken to reduce program costs.

In the event that the Authority decides to stop issuing vouchers as a result of a funding shortfall, and the Authority is not assisting the required number of special purpose vouchers (NED families, HUD-Veterans Affairs Supportive Housing (VASH) families, and family unification program (FUP) families), when the Authority resumes issuing vouchers, the Authority will issue vouchers first to the special purpose voucher families on its waiting list(s) 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, the Authority will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the Authority will inform the local HUD field office. The Authority will terminate the minimum number needed in order to reduce HAP costs to a level within the Authority's annual budget authority.

If the Authority must terminate HAP contracts due to insufficient funding, the Authority will do so in accordance with the following criteria and instructions:

Families comprising the required number of special purpose vouchers, including nonelderly disabled (NED), HUD-Veteran's Affairs Supportive Housing (HUD-VASH), and family unification program (FUP) will be the last to be terminated.

If the Authority experiences a shortfall in Housing Assistance Payments (HAP) funding as a result of Congressional action through the Federal Appropriations process, the Authority may implement a series of procedures to ensure that the fiscal solvency of the Authority is maintained while minimizing the impact on participating families.

The procedures may include but are not limited to:

- Implementing mass rent-reasonableness or re-determination;
- Adjusting the Payment Standard;
- Adjusting Occupancy Standards to reflect a basic two persons per bedroom regardless of age or sex or relationship policy;
- Requesting HUD authority to adjust the percentage of income a family pays for rent;
- Not re-issuing turn-over units;
- Not absorbing portability clients from jurisdictions with Higher Payment Standards;
- Rescinding vouchers for the number of families necessary to meet financial obligations of the Housing Choice Voucher Program. In the event this option is implemented, priority will be given to senior and/or disabled households. Following this exemption, selection will be done by random lottery.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. Overview

The Authority is required by regulation to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, the regulations give the Authority to either terminate the family's assistance or to take another action. This part discusses the various actions the Authority may choose to take when it has discretion, and outlines the criteria the Authority will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notification to the family of the Authority's intent to terminate assistance.

12-II.B. Method of Termination

[24 C.F.R. 982.552(a)(3)]

Termination of assistance for a participant may include any or all of the following:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to enter into a new HAP contract or approve a lease, or
- Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. Alternatives to Termination of Assistance

Change in Household Composition

As a condition of continued assistance, the Authority may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 C.F.R. 982.552(c)(2)(ii)].

Authority 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 Authority request.

Repayment of Family Debts

Authority Policy

If a family owes amounts to the Authority, as a condition of continued assistance, the Authority will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the Authority of the amount owed. See Chapter 16 for policies on repayment agreements.

12-II.D. Criteria for Deciding to Terminate Assistance

Evidence

For criminal activity, HUD permits the Authority to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 C.F.R. 982.553(c)].

Authority Policy

The Authority will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Consideration of Circumstances [24 C.F.R. 982.552(c)(2)(i)]

The Authority is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

Authority Policy

The Authority will consider the following factors when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents.
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure 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 2-IV) a survivor of VAWA violence/abuse.
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.
- The Authority will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program,

or evidence of otherwise having been rehabilitated successfully.

- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

Reasonable Accommodation [24 C.F.R. 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the Authority's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 C.F.R. Part 8.

Authority 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 Authority will determine whether the behavior is related to the disability. If so, upon the family's request, the Authority will determine whether alternative measures are appropriate as a reasonable accommodation. The Authority 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. The Authority will determine whether a reasonable accommodation is appropriate.

12-II.E. Termination Notice

[HCV GB, p. 15-7]

If a family's assistance is to be terminated, whether voluntarily or involuntarily, the Authority must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated
- The effective date of the termination
- The family's right to an informal hearing as described in Chapter 16

If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 C.F.R. 982.553(d)].

Authority Policy

When termination is initiated by the Authority, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the Authority, 30 days' notice will not be given. In these cases, the notice to terminate will be sent at the time the Authority learns the family has vacated the unit.

When a family requests to be terminated from the program they must do so in writing to the Authority (see section 12-I.C.). The Authority will then send a confirmation notice to the family and the owner within 15 calendar days of the family's request, but no later than the termination effective date (as requested by the family).

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the PHA sends to the family must

meet the additional HUD and PHA notice requirements discussed in section 16-III.C. of this plan. VAWA 2013 expands notification requirements to require PHAs to provide notice of VAWA rights and the HUD 5382 form when a PHA terminates a household's housing benefits *(See Section 2-IV for VAWA policies)*.

Authority Policy

Whenever the Authority decides to terminate a family's assistance because of the family's action or failure to act, the Authority will include in its termination notice the VAWA information described in section 2-IV. of this plan and a form HUD-5380 and 5382. The Authority will request in writing that a family member wishing to claim protection under VAWA notify the Authority within 14 business days.

Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, the PHA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record [24 C.F.R. 982.553(d)(2)].

- 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.

Notice of Termination Based on Citizenship Status [24 C.F.R. 5.514 (c) and (d)]

The Authority must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the Authority determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. For (3) above, such termination must be for a period of at least 24 months.

The notice of termination must advise the family of the reasons their assistance is being terminated, that they may be eligible for proration of assistance, the criteria and procedures for obtaining relief under the provisions for preservation of families, that they have the right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or a written explanation in support of the appeal, and that they have the right to request an informal hearing with the Authority either upon completion of the USCIS appeal or in lieu of the USCIS appeal. Informal hearing procedures are contained in Chapter 16.

Authority Policy

The notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination.

12-II.G. How Termination of Assistance Affects the HAP Contract and Lease

When the family's assistance is terminated, the lease and HAP contract terminate automatically [Form HUD-52641].

The owner may offer the family a separate unassisted lease [HCV GB, p. 15-8].

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. Overview

Termination of an assisted tenancy is a matter between the owner and the family; the Authority is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

12-III.B. Grounds for Owner Termination of Tenancy

[24 C.F.R. 982.310 and Form HUD-52641-A, Tenancy Addendum, Pub.L. 109-162]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, including failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened VAWA violence/abuse against that participant. This includes failure to pay rent or other amounts due under the lease. However, the Authority'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. The good cause requirements listed below compliment but do not override local and state ordinance.

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 C.F.R. 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy for criminal activity by a household member in accordance with this section if the owner determines that the household member has committed the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of arrest or conviction and without satisfying the standard of proof used for a criminal conviction, except in certain incidents where the criminal activity directly relates to VAWA violence/abuse and the participant or an affiliated individual of the participant is the victim or threatened victim of the violence/abuse. (See Section 2-IV.).

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do.

During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent) subject to local, state and federal laws.

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

Note that "other good cause" does **not** include vacating a property that has been foreclosed upon during the lease term prior to the sale of that property. However, the new owner of the property may terminate the tenancy effective on the date of transfer of the unit if the owner will occupy the unit as a primary residence and has provided the tenant a notice to vacate at least 90 days before the effective date of such notice [Notice PIH 2010-49]. Further information on the protections afforded to tenants in the event of foreclosure can be found in Section 13-II.G.

12-III.C. Eviction

[24 C.F.R. 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

VAWA 2013 requires that the tenant be provided with a notice describing VAWA rights upon termination of the tenancy due to criminal activity. This notice of VAWA rights must be translated in accordance with the Authority LEP Plan (see Appendix A).

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the Authority a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the Authority a copy of any eviction notice (see Chapter 5).

Authority Policy

If the eviction action is finalized in court, the owner must provide the Authority with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than seven (7) calendar days following the court-ordered eviction. The judgment from the court is grounds to terminate the subsidy.

12-III.D. Deciding Whether to Terminate Tenancy

[24 C.F.R. 982.310(h), 24 C.F.R. 982.310(h)(4)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action;
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;

- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C.

13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 C.F.R. 5.105.

An owner’s decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault, or stalking is limited by the Violence Against Women Reauthorization Act of 2013 (VAWA). (See Section 2-IV.)

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 Authority has no other grounds for termination of assistance, the Authority 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 Authority 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 Authority 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 NSPIRE Standards breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

Authority Policy

The security deposit may be used for repair of damages to the premises, exclusive of ordinary wear and tear, caused by the tenant or by a guest or licensee of the tenant (California Civil Code section 1950.5).

- The family must allow the Authority 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.

Authority Policy

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

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

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

Authority Policy

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

- The family must promptly give the Authority 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 Authority. The family must promptly notify the Authority in writing of the birth, adoption, or court-awarded custody of a child. The family must request Authority approval to add any other family member as an occupant of the unit.

Authority Policy

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

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

Authority 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 Authority 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 Authority when the family is absent from the unit.

Authority 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 Authority 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 Authority 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 Authority 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 Authority has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities [Form HUD-52646, Voucher].

CHAPTER 13: OWNERS

INTRODUCTION

Owners play a major role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term "owner" refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 C.F.R. 982.4(b)]. The term "owner" includes a principal or other interested party [24 C.F.R. 982.453; 24 C.F.R. 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

The chapter is organized in two parts:

> **Part I: Owners in the HCV Program**. This part discusses the role of an owner in the Authority's HCV program and highlights key owner rights and responsibilities.
>
> **Part II: HAP Contracts**. This part explains provisions of the HAP contract and the relationship between the Authority and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including Authority policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

PART I. OWNERS IN THE HCV PROGRAM

13-I.A. Owner Recruitment and Retention

[HCV GB, pp. 2-4 to 2-6]

Recruitment

The Authority is responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in the Authority's jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the Authority to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the Authority's jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, the Authority must identify and recruit new owners to participate in the program.

Authority Policy

The Authority will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The Authority will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and/or managers;
- Contacting property owners and/or managers by phone or in-person;
- Holding owner recruitment/information meetings at least once a year;
- Participating in community based organizations comprised of private property and apartment owners and managers;
- Developing working relationships with owners and real estate brokers associations.

Outreach strategies will be monitored for effectiveness, and adapted accordingly.

Retention

In addition to recruiting owners to participate in the HCV program, the Authority must also provide the kind of customer service that will encourage participating owners to remain active in the program.

Authority Policy

All Authority activities that may affect an owner's ability to lease a unit will be processed as rapidly as possible, in order to minimize vacancy losses for owners.

The Authority will provide owners with a handbook that explains the program, including HUD and Authority policies and procedures, in easy-to-understand language.

The Authority will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated Authority contact person.
- Coordinating inspection and leasing activities between the Authority, the owner, and the family.
- Initiating telephone contact with the owner to explain the inspection process and providing an inspection booklet and other resource materials about HUD housing quality standards.
- Providing other written information about how the program operates, including answers to frequently asked questions.

Additional services may be undertaken on an as-needed basis, and as resources permit.

13-I.B. Basic HCV Program Requirements

HUD requires the Authority to assist families in their housing search by providing the family with a list of landlords or other parties known to the Authority who may be willing to lease a unit to the family, or to help the family find a unit. Although the Authority cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the Authority their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 C.F.R. 982.301(b)(11)].

Authority Policy

The Authority will refer potential participants to an online system provided by the Authority to search for potential housing.

When a family approaches an owner to apply for tenancy, the owner is responsible for screening the family and deciding whether to lease to the family, just as the owner would with any potential unassisted tenant. The Authority has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RTA, Form HUD 52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the Authority, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate requirements for the approval of an assisted tenancy.

The owner must be qualified to participate in the program [24 C.F.R. 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 C.F.R. 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's NSPIRE Standards and/or equivalent state or local standards approved by HUD [24 C.F.R. 982.305(a)]. The Authority will inspect the owner's dwelling unit at least annually to ensure that the unit continues to meet NSPIRE requirements. See chapter 8 for a discussion of the inspection standards and policies for NSPIRE inspections at initial lease-up and throughout the family's tenancy.

The Authority must determine that the proposed rent for the unit is reasonable [24 C.F.R. 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See chapter 8 for a discussion of requirements and policies on rent reasonableness, rent comparability and the rent reasonableness determination process.

At initial lease-up of a unit, if the gross rent exceeds the applicable payment standard, the Authority must ensure that the family share does not exceed 40 percent of the family's monthly adjusted income [24 C.F.R. 982.305(a)]. See chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 C.F.R. 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. The HUD Tenancy Addendum includes the HUD requirements governing the tenancy and must be added word-for- word to the owner's lease. See chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The Authority and the owner must execute a Housing Assistance Payment (HAP) Contract (Form HUD-52641). The HAP contract format is prescribed by HUD. See chapter 9 for a discussion of the HUD requirements for execution of the HAP contract.

13-I.C. Owner Responsibilities

[24 C.F.R. 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Compliance with all of the owner's obligations under the Housing Assistance Payments (HAP) contract and the lease;
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit;
- Maintaining the unit in accordance with the NSPIRE Standards, including performance of ordinary and extraordinary maintenance;
- Complying with equal opportunity requirements;
- Preparing and furnishing to the Authority information required under the HAP contract;

- Collecting the security deposit, the tenant rent and any charges for unit damage by the family;
- Enforcing tenant obligations under the dwelling lease;
- Paying for utilities and services that are not the responsibility of the family as specified in the lease;
- Allow reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 C.F.R. 100.203];
- Complying with the Violence against Women Reauthorization Act of 2013 (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family (see 24 C.F.R. Part 5, Subpart L; 24 C.F.R. 982.310(h)(4); and 24 C.F.R. 982.452(b)(1)).
- Any actions required to regain possession of the unit from tenants is the sole responsibility of the owner.

13-I.D. Owner Qualifications

The Authority does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the Authority 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 C.F.R. 982.306(e)].

Owners Barred from Participation [24 C.F.R. 982.306(a) and (b)]

The Authority must not approve the assisted tenancy if the Authority has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 C.F.R. part 24. HUD may direct the Authority 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.

Authority Policy

In its administrative discretion, the PHA may deny approval of an assisted tenancy for any of the following reasons in accordance with 24 CFR 982.306:

- The PHA must not approve an assisted tenancy if the PHA has been informed (by HUD or otherwise) that the owner is debarred, suspended, or subject to a limited denial of participation under 2 CFR part 2424.
- When directed by HUD, the PHA must not approve an assisted tenancy if:
  - The federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements, and such action is pending; or
  - A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.
- In its administrative discretion, the PHA may deny approval of an assisted tenancy for any of the following reasons:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with NSPIRE for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally-assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
    - (i) Threatens the right to peaceful enjoyment of the premises by other residents;
    - (ii) Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing;
    - (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or
    - (iv) Is drug-related criminal activity or violent criminal activity.
- The owner has a history or practice of renting units that fail to meet State or local housing codes; or
- The owner has not paid State or local real estate taxes, fines or assessments.

- The PHA must not approve a unit if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the PHA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities. This restriction against PHA approval of a unit only applies at the time a family initially receives tenant-based assistance for occupancy of a particular unit, but does not apply to PHA approval of a new tenancy with continued tenant-based assistance in the same unit.
- The Authority does not tolerate words, conduct, or behavior that belittles, demeans, intimidates, harasses, threatens, bullies, or discriminates against applicants, participants or Authority staff. Real or implied threat(s) of physical aggression, use of stature or title to intimidate another into taking an action that is adverse to their housing or employment and exchanges of monetary, physical or sexual acts, at Landlord's request that adversely impact an applicant, participant, or employee are not acceptable. Incident(s) of any of the above described or similar behavior will be reviewed by the Authority on a case-by-case basis. Corrective actions may include but not be limited to removal from the premises, disapproval of a unit, or

disapproval of an assisted tenancy.

- Nothing in this policy is intended to give any owner any right to participate in the program.
- For purposes of this section, "owner" includes a principal or other interested party.

Leasing to Relatives [24 C.F.R. 982.306(d), HCV GB p. 11-2]

The Authority must not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The Authority may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 C.F.R. 982.161; HCV GB p. 8-19]

The Authority 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 Authority (except a participant commissioner);
- Any employee of the Authority, or any contractor, subcontractor or agent of the Authority, who formulates policy or who influences decisions with respect to the programs;
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs;
- Any member of the Congress of the United States.

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The Authority must submit a waiver request to the appropriate HUD Field Office for determination.

Any waiver request submitted by the Authority must include the following [HCV Guidebook pp.11-2 and 11-3]:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the Authority, or both parties may conduct this analysis. Where appropriate, an opinion by the state's attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;

- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the Authority or assistance under the HCV program for an eligible Authority 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 Authority, description of the nature of the investment, including disclosure/divestiture plans.

Where the Authority has requested a conflict of interest waiver, the Authority may not execute the HAP contract until HUD has made a decision on the waiver request.

Authority Policy

In considering whether to request a conflict of interest waiver from HUD, the Authority will consider certain; such as consistency of the waiver with state and local laws; the existence of alternative housing available to families; the individual circumstances of a particular family; the specific duties of individuals whose positions present a possible conflict of interest; the nature of any financial investment in the property and plans for disclosure/divestiture; and the possible appearance of impropriety.

Owner Actions That May Result in Disapproval of a Tenancy Request [24 C.F.R. 982.306(c)]

HUD regulations permit the Authority to disapprove a request for tenancy for various actions and inactions of the owner.

If the Authority disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

Authority Policy

The Authority will refuse to approve a request for tenancy if the Authority becomes aware that any of the following are true:

- The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- The owner has a history or practice of non-compliance with NSPIRE 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 pattern with the use of violent, abusive, or excessive offensive language towards Authority personnel, its agents, and/or contractors.
- The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally-assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that:
  - (i) Threatens the right to peaceful enjoyment of the premises by other residents;
  - (ii) Threatens the health or safety of other residents, of employees of the Authority, or of owner employees or other persons engaged in management of the housing;
  - (iii) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or
  - (iv) Is drug-related criminal activity or violent criminal activity.
- The owner has a history or practice of renting units that fail to meet state or local housing codes; or
- The owner has not paid state or local real estate taxes, fines, or assessment.

In determining an owner's current or past behavior, the Authority may evaluate current or previous units subsidized by the program. Along with this, the Authority may perform a criminal background and credit check screening of all owners who have 10 percent or more ownership interest in the assisted unit. The Authority will screen owners for family denial criteria outlined in chapter 3 of this plan.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the Authority will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, the Authority may, on a case-by-case basis, choose to approve an owner.

Legal Ownership of Unit

The following represents Authority Policy on legal ownership of a dwelling unit to be assisted under the HCV program.

Authority Policy

The Authority 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 Authority.

The owner must cooperate with the Authority 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 Authority.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

Mandatory Violence Against Women Act Requirements

Tenancy Screening and Eviction

An Owner must not deny the tenancy of an applicant, or evict a tenant on the basis or as a *direct result* of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation or occupancy. The PHA encourages Owners to allow tenants out of their lease if their family needs to move out to protect the health or safety of the victim.

Certification of Documentation

Owners are not required to ask for documentation when an individual presents a claim for VAWA protections. If the owner chooses to request an individual to document their claim of domestic violence, dating violence, sexual assault, or stalking, 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). Exceptions to this provision in cases of conflicting documentation.

Victim Confidentiality

Information submitted to an owner, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be maintained in strict confidence. This means that the Authority (1) may not enter the information into any shared database; (2) may not allow employees or others to access the information unless they are explicitly authorized to do so by the Authority for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law; 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 a written time-limited release; (b) required for use in an eviction proceeding; or (c) otherwise required by applicable law.

For more information on VAWA regulations, see Section 16-IX. of this plan and Exhibit 16-5, Notice to HCV Owners and Managers Regarding the VAWA.

13.I.F. Quarterly Programmatic and HAP Review

Authority Policy

At the conclusion of each quarter of the calendar year (March, June, September, November), the Authority will initiate a review of Housing Assistance Payments (HAP) for the largest PBV property owners. A quarterly programmatic and HAP analysis report will be provided to the owner that includes a summary of each owner/property manager's utilization rates, payment records, and any holds or abatements that were put in place during the quarter. The review will provide the owner/property manager an opportunity to enter any missing payment requests for the quarter.

Each report will include a deadline to notify the Authority of any discrepancies on the report. Upon conclusion of the deadline, the Authority will schedule a meeting with the owner/property manager within 30 calendar days to discuss and finalize the contents of the report concluding with a confirmatory letter wherein both parties agree that the content of the report is true and correct. The confirmatory letter must be signed and returned to the Authority within seven (7) calendar days of the meeting. The confirmatory letter confirms that both parties agree to closing payments for the quarter report reviewed.

If the Authority does not receive a signed confirmatory letter before the deadline provided by the Authority, the Authority will close the quarterly review and it will be implied that Owner intended to agree with the content. Failure to respond or participate in the process wherein the proper parties have been notified will waive any claims to unpaid HAP for the period covered by the report. The Authority is able to accept extension requests for Quarter One, Quarter two and Quarter three. However, at the end of the Quarter Four, the Authority will close its books for the full calendar year. After the Authority closes its books, it will not consider any requests for extension or remaining requests for corrections for the calendar year.

PART II: HAP CONTRACTS

13-II.A. Overview

The HAP contract represents a written agreement between the Authority 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 Authority's obligations. Under the HAP contract, the Authority agrees to make housing assistance payments to the owner on behalf of a specific family occupying a specific unit.

The HAP contract is used for all HCV program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and lease the space. See chapter 15 for a discussion of any special housing types included in the Authority's HCV program.

If the Authority has given approval for the family of the assisted tenancy, the owner and the Authority execute the HAP contract. See chapter 9 for a discussion of the leasing process, including provisions for execution of the HAP contract.

13-II.B. HAP Contract Contents

The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three parts.

Part A of the contract includes basic contract information: the names of the tenant and all household members, the address of the contract unit, start and end dates of initial lease term, the amount of initial monthly rent to owner, the amount of initial housing assistance payment, the utilities and appliances to be supplied by owner and tenant, and the signatures of the Authority representative and owner [HCV Guidebook, pp 11-10 and 11-11].

Part B is the body of the contract. It describes in detail program requirements affecting the owner and owner roles and responsibilities under the HCV program. Most of the requirements contained in Part B of the HAP contract are outlined elsewhere in this plan. Topics addressed in Part B include:

- Lease of Contract Unit
- Maintenance, Utilities, and Other Services
- Term of HAP Contract
- Provision and Payment of Utilities and Appliances
- Rent to Owner: Reasonable Rent
- Authority Payment to Owner
- Prohibition of Discrimination
- Owner's Breach of HAP Contract
- Authority and HUD Access to Premises and Owner's Records

- Exclusion of Third Party Rights
- Conflict of Interest
- Assignment of the HAP Contract
- Written Notices
- Entire Agreement Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the Authority. 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 Authority 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 Authority must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the Authority is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant and the HAP payment is equal to the rent to owner as specified in the lease.

The family is not responsible for payment of the HAP payment, and the Authority is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the rent to owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 C.F.R. 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 C.F.R. 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 Authority, the excess amount must be returned immediately. If the Authority determines that the owner is not entitled to all or a portion of the HAP, the Authority may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

Owner Certification of Compliance

Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract [HAP Contract – Form HUD-52641].

By endorsing the monthly check from the Authority, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with NSPIRE; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

Late HAP Payments [24 C.F.R. 982.451(a)(5)]

The Authority is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for late penalties if the Authority 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 Authority is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the Authority's control. In addition, late payment penalties are not required if the Authority intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

Termination of HAP Payments [24 C.F.R. 982.311(b)]

The Authority must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the Authority 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.

Authority Policy

The owner must inform the Authority when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the Authority when the owner has obtained a court judgment or other process allowing the owner to evict the tenant and provide the Authority 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 Authority 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 Authority 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 C.F.R. 982.453]

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with NSPIRE;
- If the owner has violated any obligation under any other HAP contract under Section 8;
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation for the applicable program; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan

- If the owner has engaged in drug-related criminal activity;
- If the owner has committed any violent criminal activity;
- If the Authority determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The Authority'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 of the HAP contract. The Authority may also obtain additional relief by judicial order or action.

The Authority must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The Authority must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

Authority Policy

Before the Authority invokes a remedy against an owner, the Authority will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the Authority 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 Authority will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

13-II.E. HAP Contract Term and Terminations

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 C.F.R. 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The Authority terminates the HAP contract;
- The Authority terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit;
- 180 calendar days have elapsed since the Authority made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the Authority;
- The Annual Contributions Contract (ACC) between the Authority and HUD expires;
- The Authority elects to terminate the HAP contract.

Authority Policy

The Authority 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 C.F.R. 982.454];
- The unit does not meet NSPIRE size requirements due to change in family composition [24 C.F.R. 982.403] – see chapter 8;
- The unit does not meet NSPIRE [24 C.F.R. 982.404] – see chapter 8;
- The family breaks up [HUD Form 52641] – see chapter 3;
- The owner breaches the HAP contract [24 C.F.R. 982.453(b)] – see Section 13- II.D.;
- Unprofessional conduct towards Authority staff including harassment, abuse or threatening behavior.

If the Authority terminates the HAP contract, the Authority must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

Authority Policy

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the Authority gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period and must return to the Authority any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

13-II.F. Change in Ownership/Assignment of the HAP Contract

[HUD-52641]

The HAP contract cannot be assigned to a new owner without the prior written consent of the Authority.

An owner under a HAP contract must notify the Authority in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the Authority.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the Authority finds acceptable. The new owner must provide the Authority with a copy of the executed agreement.

Authority Policy

The Authority must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract. Documentation must be provided to the Authority no later than 60 calendar days prior to the proposed effective date of the assignment.

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

The Authority will inform the current owner in writing no later than 15 calendar days prior to the proposed effective date of the assignment, whether the assignment may take place.

The new owner must provide a written certification to the Authority that includes:

- A copy of the escrow statement or other document showing the transfer of title and recorded deed;
- A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;
- The effective date of the HAP contract assignment;
- A written agreement to comply with the terms of the HAP contract; and
- A certification that the new owner is not a prohibited relative.

If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, the Authority will terminate the HAP contract with the old owner. If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, the Authority will process the leasing in accordance with the policies in chapter 9.

13-II.G. Foreclosure

[HUD-52641 and Notice PIH 2010-49]

Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA). Specifically, the HAP contract now contains language stating that in the case of any foreclosure, the immediate successor in interest in the property pursuant to the foreclosure will assume such interest subject to the lease between the prior owner and the tenant, and to the HAP contract between the prior owner and the Authority for the occupied unit. This provision of the HAP contract does not affect any state or local law that provides longer time periods or other additional protections for tenants.

If the Authority learns that a property is in foreclosure, it must take the following actions:

- Make all reasonable efforts to determine the status of the foreclosure and ownership of the property. (Further guidance on how to obtain this information can be found in Notice PIH 2010-49.)
- Continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract.
- Attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. The written agreement should include a request for owner information, such as 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.
- Inform the tenant that they must continue to pay rent in accordance with the lease, and if the successor in interest 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.

- Inform the tenant in the event that the Authority is unable to make HAP payments to the successor in interest due an action or inaction by the successor that prevents such payments (e.g., rejection of payments or failure to maintain the property according to NSPIRE), or due to an inability to identify the successor. The Authority should 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.
- Make reasonable inquiries to determine whether the unit, in addition to having a tenant receiving HCV assistance, will be or has been assisted under the Neighborhood Stabilization Program (NSP). (For further guidance on cases in where the units have been assisted under the NSP, see Notice PIH 2010-49.)

The Authority is also required to notify HCV applicants who have been issued a voucher, participant heads of household, and current and prospective owners of HCV-assisted housing of the protections afforded to tenants under the PTFA.

Authority Policy

The Authority will provide all HCV applicants that have been issued a voucher with information regarding the PTFA at admission (see Section 5-I.B.) and to participant heads of household at annual reexamination.

The Authority will provide information regarding the PTFA to prospective owners when they begin their participation in the HCV program, and to current HCV owners one time with the monthly HAP.

Note that the foreclosure provision of the HAP contract and additional tenant protections under the Protecting Tenants at Foreclosure Act will sunset December 31, 2014.

See Section 12-III.B. for a discussion of foreclosure as it pertains to owner termination of tenancy.

CHAPTER 14: PROGRAM INTEGRITY

The Authority is committed to ensuring that subsidy funds made available to the Authority are spent in accordance with HUD requirements.

This chapter covers HUD and Authority 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 Authority policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the Authority must and may take when errors or program abuses are found.

PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

14-I.A. Preventing Errors and Program Abuse

HUD created the Enterprise Income Verification (EIV) system to provide PHAs with a powerful tool for preventing errors and detecting program abuse. PHAs are required to use the EIV system in its entirety in accordance with HUD administrative guidance [24 C.F.R. 5.233]. PHAs are further required to:

- Provide applicants and participants with form HUD-52675, "Debts Owed to PHAs and Terminations."
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file.

Authority Policy

To ensure that the Authority's HCV program is administered according to the highest ethical and legal standards, the Authority will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

- The Authority will discuss program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.
- The Authority 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.
- The Authority 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 2010-19. In addition, the Authority will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.
- The Authority will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key Authority forms and form letters that request information from a family or owner.
- Authority staff will be required to review and explain the contents of all HUD- and Authority-required forms prior to requesting family member signatures.
- At every regular reexamination, Authority staff will explain any changes in HUD regulations or Authority Policy that affect program participants.
- The Authority will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.
- The Authority will provide owners with ongoing information about the program, with an emphasis on actions and situations to avoid.

- The Authority will provide each Authority employee with the necessary training on program rules and the organization's standards of conduct and ethics.

For purposes of this chapter the term error refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

14-I.B. Detecting Errors and Program Abuse

In addition to taking steps to prevent errors and program abuse, the Authority will use a variety of activities to detect errors and program abuse.

Quality Control and Analysis of Data

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the Authority 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 NSPIRE compliance [24 C.F.R., Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

Authority Policy

In addition to the SEMAP quality control requirements, the Authority will employ a variety of methods to detect errors and program abuse.

- The Authority routinely will use HUD and other non-HUD sources of up-front income verification. This includes The Work Number and any other private or public databases available to the Authority.
- 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 Authority will compare family-reported income and expenditures to detect possible unreported income.

Independent Audits and HUD Monitoring

OMB Circular A-133 requires all PHAs that expend $500,000 or more in federal awards annually to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of PHA activities and notifies the PHA of errors and potential cases of program abuse.

Authority Policy

The Authority will use the results reported in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the effectiveness of the Authority's error detection and abuse prevention efforts.

Individual Reporting of Possible Errors and Program Abuse

Authority Policy

The Authority will encourage staff, program participants, and the public to report possible program abuse.

14-I.C. Investigating Errors and Program Abuse

When the Authority Will Investigate

Authority Policy

The Authority will review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for the Authority to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

The Authority will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

Consent to Release of Information [24 C.F.R. 982.516]

The Authority may investigate possible instances of error or abuse using all available Authority and public records. If necessary, the Authority will require HCV families to sign consent forms for the release of additional information.

Analysis and Findings

Authority Policy

The Authority will base its evaluation on a preponderance of the evidence collected during its investigation.

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

For each investigation the Authority will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed the Authority, 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 Authority will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

Authority Policy

In the case of family-caused errors or program abuse, the Authority will take into consideration (1) the seriousness of the offense and the extent of participation or culpability of individual family members, (2) any special circumstances surrounding the case, (3) any mitigating circumstances related to the disability of a family member, (4) the effects of a particular remedy on family members who were not involved in the offense.

In the case of owner-caused errors or program abuse, the Authority 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

Authority Policy

The Authority will inform the relevant party in writing of its findings and remedies within 30 calendar days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the Authority determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

PART II: CORRECTIVE MEASURES AND PENALTIES

14-II.A. Subsidy Under or Overpayments

A subsidy under- or over-payment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

Corrections

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the Authority must promptly correct the HAP, family share, and any utility reimbursement prospectively.

Authority 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 Authority or the Authority is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

14-II.B. Family-Caused Errors and Program Abuse

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the Authority to use incorrect information provided by a third party.

Family Reimbursement to Authority [HCV GB pp. 22-12 to 22-13]

Authority Policy

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The Authority 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 Authority will terminate the family's assistance in accordance with the policies in Chapter 12.

Authority Reimbursement to Family [HCV GB p. 22-12]

Authority Policy

The Authority 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 Authority [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 C.F.R. 982.552(c)(iv)].

Authority Policy

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by the Authority for rent, security deposit, and additional services;
- Offering bribes or illegal gratuities to the Authority Board of Commissioners, employees, contractors, or other Authority representatives;
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to the Authority on the family's behalf;
- Use of a false name or the use of falsified, forged, or altered documents;
- Intentional misreporting of family information or circumstances (e.g. income, family composition);
- Omitted facts that were obviously known by a family member (e.g., not reporting employment income);
- Admission of program abuse by an adult family member.

The Authority 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 Authority may, at its discretion, impose any of the following remedies.

- The Authority may require the family to repay excess subsidy amounts paid by the Authority, as described earlier in this section.
- The Authority may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3

(for applicants) and Chapter 12 (for participants).

- The Authority may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The Authority 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 unit.

Owner Reimbursement to the Authority

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the Authority any excess subsidy received. The Authority may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the Authority may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

Authority Policy

In cases where the owner has received excess subsidy, the Authority will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

Prohibited Owner Actions

- An owner participating in the HCV program must not:
- Make any false statement to the Authority [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 C.F.R. 982.453(a)(3)].
- Violate any obligations under the HAP contract for the dwelling unit, including the owners obligation to maintain the unit in accordance with NSPIRE.
- Engage in drug related criminal activity.
- Commit any violent criminal activity.

Authority 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 Authority;

- Charging a security deposit other than that specified in the family's lease;
- Charging the family for services that are provided to unassisted tenants at no extra charge;
- Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit;
- Knowingly accepting incorrect or excess housing assistance payments;
- Offering bribes or illegal gratuities to the Authority Board of Commissioners, employees, contractors, or other Authority representatives;
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the Authority;
- Residing in the unit with an assisted family.

Remedies and Penalties

When the Authority determines that the owner has committed program abuse, the Authority 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 Authority programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

14-II.D. Authority-Caused Errors or Program Abuse

The responsibilities and expectations of Authority staff with respect to program administration are discussed throughout this plan. This section specifically addresses actions of an Authority staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the Authority personnel policy.

Authority-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 Authority

Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by Authority staff [HCV GB. 22-12].

Authority Reimbursement to Family or Owner

The Authority 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 Authority's administrative fee reserves [HCV GB p. 22- 12].

Prohibited Activities

Authority Policy

Any of the following will be considered evidence of program abuse by Authority staff:

- Failing to comply with any HCV program requirements for personal gain;
- Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner;
- Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the Authority;
- Disclosing confidential or proprietary information to outside parties;
- Gaining profit as a result of insider knowledge of Authority activities, policies, or practices;
- Misappropriating or misusing HCV funds;
- Destroying, concealing, removing, or inappropriately using any records related to the HCV program;
- Committing any other corrupt or criminal act in connection with any federal housing program.

14-II.E. Criminal Prosecution

Authority Policy

When the Authority determines that program abuse by an owner, family, or Authority staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the Authority 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 Authority may retain a portion of program fraud losses that the Authority recovers from a family or owner through litigation, court order, or a repayment agreement [24 C.F.R. 982.163].

The Authority 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 C.F.R. 792.202 permits the Authority 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 Authority 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 C.F.R. 982.555.

If HUD incurs costs on behalf of the Authority related to the collection, these costs must be deducted from the amount retained by the Authority.

CHAPTER 15: SPECIAL HOUSING TYPES
[24 C.F.R. 982 Subpart M]

The Authority may permit a family to use any of the special housing types discussed in this chapter. However, the Authority is not required to permit families receiving assistance in its jurisdiction 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. The PHA also may limit the number of families who receive HCV assistance in these housing types and cannot require families to use a particular housing type. No special funding is provided for special housing types.

Authority Policy

The Authority policy is to permit all special housing types as modified by this chapter, and that the general requirements of the HCV program apply to special housing types. Special housing types include Single Room Occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 C.F.R. 982.601].

Special housing types include Single Room Occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes (including manufactured home space rental) where the family owns the home and leases the space, and homeownership [24 C.F.R. 982.601].

This chapter consists of the following seven parts. Each part contains a description of the housing type and any special requirements associated with it.

Part I: Single Room Occupancy

Part II: Congregate Housing

Part III: Group Homes

Part IV: Shared Housing

Part V: Cooperative Housing

Part VI: Manufactured Homes (including manufactured home space rental)

Part VII: Homeownership

PART I: SINGLE ROOM OCCUPANCY

[24 C.F.R. 982.602-982.605]

15-I.A. Overview

A Single Room Occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person, and the standard form of the HAP contract is used.

15-I.B. Payment Standards, Utility Allowance, and HAP Calculation

The payment standard for SRO housing is 75 percent of the zero-bedroom payment standard amount on the Authority's payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is 75 percent of the zero-bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

15-I.C. National Standards for the Physical Inspection of Real Estate (NSPIRE)

NSPIRE requirements described in Chapter 8 apply to SRO housing except as modified below.

- *Access:* Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.
- *Fire Safety:* All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.
- Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 C.F.R. 982.605].
- *Sanitary Facilities:* At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.

- *Space and Security:* An SRO unit must contain at least 110 square feet of floor space, and at least four-square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

  Because no children live in SRO housing, the housing quality standards applicable to lead- based paint do not apply.

PART II: CONGREGATE HOUSING

[24 C.F.R. 982.606 through 982.609]

15-II.A. Overview

Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom, and bathroom.

Food service for residents must be provided.

If approved by the Authority, a family member or live-in aide may reside with the elderly person or person with disabilities. The Authority must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-II.B. Payment Standard, Utility Allowance, and HAP Calculation

The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the Authority must use the payment standard for a zero-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the Authority must use the one-bedroom payment standard.

The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

15-II.C. 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.

Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents; and (3) food service for the residents, that is not provided by the residents themselves.

The housing quality standards applicable to lead-based paint do not apply.

PART III: GROUP HOME

[24 C.F.R. 982.610 through 982.614 and HCV GB p. 7-4]

15-III.A. Overview

A group home is a state-licensed facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.

No more than 12 persons may reside in a group home including assisted and unassisted residents and any live-in aides.

If approved by the Authority, a live-in aide may live in the group home with a person with disabilities. The Authority must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used.

15-III.B. Payment Standard, Utility Allowance, and HAP Calculation

Unless there is a live-in aide, the family unit size for an assisted occupant of a group home must be zero- or one-bedroom, depending on the Authority's subsidy standard. If there is a live-in aide, the aide must be counted in determining the household's unit size.

The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the 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 HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted occupant in a group home is the pro rata share of the utility allowance for the group home.

The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the pro rata portion of the reasonable rent for the group home. In determining reasonable rent, the Authority should consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

15-III.C. National Standard for the Physical Inspection of Real Estate (NSPIRE)

NSPIRE requirements described in Chapter 8 apply to group homes except for the requirements stated below.

- *Sanitary Facilities:* A group home must have at least one bathroom in the

facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.

- *Food Preparation and Service:* Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.
- *Space and Security:* Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents.
- *Structure and Material:* To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.
- *Site and Neighborhood:* Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:

    - Dangerous walks or steps,
    - Instability,
    - Flooding, poor drainage,
    - Septic tank back-ups,
    - Sewage hazards,
    - Mud slides,
    - Abnormal air pollution,
    - Smoke or dust,
    - Excessive noise,
    - Vibrations or vehicular traffic,
    - Excessive accumulations of trash,
    - Vermin or rodent infestation, and
    - Fire hazards.

The housing quality standards applicable to lead-based paint do not apply.

PART IV: SHARED HOUSING

[24 C.F.R. 982.615-982.618]

15-IV.A. Overview

Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons. The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

If approved by the Authority, a live-in aide may reside with the family to care for a person with disabilities. The Authority must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family, and the standard form of the HAP contract is used.

15-IV.B. Payment Standards, Utility Allowance and HAP Calculation

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size or the 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 space by the total number of bedrooms in the unit.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP. The utility allowance for an assisted family living in shared housing is the lower of the utility allowance for the family unit size (voucher size) or the pro rata share of the utility allowance for the shared housing unit.

Example: A family holds a 2-bedroom voucher. The family decides to occupy 3 out of 4 bedrooms available in the unit.

The utility allowance for a 4-bedroom unit equals $200

The utility allowance for a 2-bedroom unit equals $100

The prorata share of the utility allowance is $150 (3/4 of $200)

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 Authority 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)

The Authority may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

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. A zero- bedroom or one-bedroom unit may not be used for shared housing.

PART V: COOPERATIVE HOUSING

[24 C.F.R. 982.619]

15-V.A. Overview

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged "rent" a cooperative member is charged a "carrying charge."

When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used.

15-V.B. Payment Standard, Utility Allowance and HAP Calculation

The payment standard and utility allowance are determined according to regular HCV program requirements.

The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the monthly carrying charge for the unit, plus any utility allowance, minus the TTP. The monthly carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

15-V.C. National Standards for the Physical Inspection of Real Estate (NSPIRE)

All standard NSPIRE requirements apply to cooperative housing units. There are no additional housing quality requirements.

PART VI: MANUFACTURED HOMES

[24 C.F.R. 982.620 through 982.624; FR Notice 1/18/17]

15-VI.A. Overview

A manufactured home is a manufactured structure, transportable in one or more parts that is built on a permanent chassis and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in two different ways.

(1) A family can choose to rent a manufactured home already installed on a space and the Authority 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) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. Authority may, but is not required to, provide assistance for such families.

15-VI.B. Special Policies for Manufactured Homeowners who Lease a Space Family Income

In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

Lease and HAP Contract

There is a separate Tenancy Addendum (Form 52642-a) and separate HAP Contract (Form 52642) for this special housing type.

15-VI.C. Payment Standard, Utility Allowance and HAP Calculation

[FR Notice 1/18/17] Payment Standards

The PHA payment standard for manufactured homes is determined in accordance with 24 CFR 982.505 and is the payment standard used for the PHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

Utility Allowance

The Authority must establish utility allowances for manufactured home space rental. For the first 12 months of the initial lease term only, the allowance must include an amount for a utility hook- up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

If the amount of the monthly assistance payment for a family exceeds the monthly rent for the manufactured home space (including the owner's monthly management and maintenance charges), the PHA may pay the remainder to the family, lender, or utility company.

Space Rent

The 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. The rent for the manufactured home space (including other eligible housing expenses) is the total of:

- The rent charged for the manufactured home space;
- Owner maintenance and management charges for the space;
- The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- The applicable allowance for tenant-paid unities.

Housing Assistance Payment

The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the (gross) manufactured home space rent minus the TTP.

Rent Reasonableness

Initially, and annually thereafter the Authority must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The Authority must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly HAP check, the owner certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the manufactured home park or elsewhere.

15-VI.D. National Standards for the Physical Inspection of Real Estate (NSPIRE)

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all NSPIRE requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

Manufactured Home Tie-Down

A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

PART VII: HOMEOWNERSHIP

[24 C.F.R. 982.625-982.643]

15-VII.A. Overview

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. The PHA must have the capacity to operate a successful HCV homeownership program as defined by the regulations.

There are two forms of homeownership assistance a PHA may offer under this option: monthly homeownership assistance payments, or a single down payment assistance grant. PHAs may choose to offer either or both forms of homeownership assistance, or choose not to offer either. If a PHA offers both forms of assistance, a family must choose which form of assistance to receive.

The PHA must offer either form of homeownership assistance if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities. It is the sole responsibility of the PHA to determine whether it is reasonable to implement a homeownership program as a reasonable accommodation. The PHA must determine what is reasonable based on the specific circumstances and individual needs of the person with a disability. The PHA may determine that it is not reasonable to offer homeownership assistance as a reasonable accommodation in cases where the PHA has otherwise opted not to implement a homeownership program.

The 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.

Authority Policy

The Authority will only offer one form of homeownership assistance: monthly homeownership assistance payments.

The Authority must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

15-VII.B. Family Eligibility

[24 C.F.R. 982.627]

The family must meet all of the requirements listed below before the commencement of homeownership assistance. The PHA may also establish additional initial requirements as long as they are described in the PHA administrative plan.

- The family must have been admitted to the Housing Choice Voucher program.
- The family must qualify as a first-time homeowner, or may be a cooperative member.
- The family must meet the Federal minimum income requirement. The family must have a gross annual income equal to the Federal minimum wage multiplied by 2000, based on the income of adult family members who will own the home. The PHA may establish a higher income standard for families. However, a

family that meets the federal minimum income requirement (but not the PHA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre- approved for financing that is sufficient to purchase an eligible unit.

- For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by 12.
- For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining whether the family meets the minimum income requirement. It will not be included for other families.
- The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of 30 hours per week); and has been continuously employed for 12 months before commencement of homeownership assistance for the family.
- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the PHA must grant an exemption from the employment requirement if the PHA determines that it is needed as a reasonable accommodation.
- The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option.
- Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home.
- Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 C.F.R. 982.631(c).
- The family must meet an income standard that is based on the City of San Francisco's minimum wage. The minimum gross annual income for the family should be equal to the City of San Francisco minimum wage multiplied by 2000 hours, based on the income of adult family members who will own the home. However, a family that meets the Federal minimum income requirement of a gross annual income equal to the Federal minimum wage multiplied by 2000 hours, will be considered to meet the minimum income requirement if the family can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit.

15-VII.C. Selection of Families

[24 C.F.R. 982.626]

Unless otherwise provided (under the homeownership option), the PHA may limit homeownership assistance to families or purposes defined by the PHA and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such

limits or additional requirements must be described in the PHA administrative plan.

If the PHA limits the number of families that may participate in the homeownership option, the PHA must establish a system by which to select families to participate.

15-VII.D. Eligible Units

[24 C.F.R. 982.628]

In order for a unit to be eligible, the PHA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:
  - A public housing or Indian housing unit;
  - A unit receiving Section 8 project-based assistance;
  - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
  - A college or other school dormitory;
  - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- The unit must be under construction or already exist at the time the family enters into the contract of sale.
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by the PHA and by an independent inspector designated by the family.
- The unit must meet Housing Quality Standards (see Chapter 8).
- For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least 40 years.
- For PHA-owned units all of the following conditions must be satisfied:
  - The PHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a PHA-owned unit is freely selected by the family without PHA pressure or steering;
  - The unit is not ineligible housing;
  - The PHA obtains the services of an independent agency to inspect the unit for compliance with NSPIRE, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any PHA provided financing. All of these actions must be completed in accordance with program requirements.

The PHA must not approve the unit if the PHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

15-VII.E. Additional Authority Requirements for Search and Purchase

[24 C.F.R. 982.629]

It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. The PHA may establish the maximum time that will be allowed for a family to locate and purchase a home and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by the PHA, the PHA may issue the family a voucher to lease a unit or place the family's name on the waiting list(s) for a voucher.

15-VII.F. Homeownership Counseling

[24 C.F.R. 982.630]

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA. HUD suggests the following topics for the PHA-required pre-assistance counseling:

- Home maintenance (including care of the grounds);
- Budgeting and money management;
- Credit counseling;
- How to negotiate the purchase price of a home;
- How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;
- How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction;
- Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;
- Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and
- Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

The PHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

If the PHA does not use a HUD-approved housing counseling agency to provide the counseling, the PHA should ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

15-VII.G. Home Inspections, Contract of Sale, and PHA Disapproval of Seller

[24 C.F.R. 982.631]

Home Inspections

The PHA may not commence monthly homeownership assistance payments for a family until the PHA has inspected the unit and has determined that the unit passes housing quality standards.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The PHA may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor, or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

The PHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with housing quality standards.

Contract of Sale

Before commencement of monthly homeownership assistance payments, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the PHA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under C.F.R. part 24.

Disapproval of a Seller

In its administrative discretion, the PHA may deny approval of a seller for the same reasons a PHA may disapprove an owner under the regular HCV program [see 24 C.F.R. 982.306(c)].

15-VII.H. Financing

[24 C.F.R. 982.632]

The PHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. The PHA must establish policies describing these requirements in the administrative plan.

A PHA may not require that families acquire financing from one or more specified lenders, thereby

restricting the family's ability to secure favorable financing terms.

15-VII.I. Continued Assistance Requirements; Family Obligations

[24 C.F.R. 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement in which the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 C.F.R. 982.551 (h) and (i).
- The family must supply information to the PHA or HUD as specified in 24 C.F.R. 982.551(b). The family must further supply any information required by the PHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses.
- The family must notify the PHA before moving out of the home.
- The family must notify the PHA if the family defaults on the mortgage used to purchase the home.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 C.F.R. 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 C.F.R. 982.551(c), (d), (e), (f), (g) and (j).

15-VII.J. Maximum Term of Homeowner Assistance

[24 C.F.R. 982.634]

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
- Ten years, in all other cases.
- The maximum term described above applies to any member of the family who:
- Has an ownership interest in the unit during the time that homeownership payments are made; or
- Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

15-VII.K. Homeownership Assistance Payments and Homeownership Expenses

[24 C.F.R. 982.635]

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the PHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described elsewhere in this plan for the Housing Choice Voucher program. The payment standard for a family is the greater of (i) The payment standard as determined at the commencement of homeownership assistance for occupancy of the home, or (ii) The payment standard at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

The PHA may pay the homeownership assistance payments directly to the family, or at the PHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, the PHA must pay the excess directly to the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family. However, a PHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

The PHA must adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.

Homeownership expenses (not including cooperatives) only include amounts allowed by the PHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home.
- Real estate taxes and public assessments on the home;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;

- The PHA utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 C.F.R. 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

Homeownership expenses for a cooperative member may only include amounts allowed by the PHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home;
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person; and
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

15-VII.L. Portability

[24 C.F.R. 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]

Subject to the restrictions on portability included in HUD regulations and PHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program or bill the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA if the family has purchased an

eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.

15-VII.M. Moving with Continued Assistance

[24 C.F.R. 982.637]

A family receiving homeownership assistance may move with continued tenant-based assistance. The family may move with voucher rental assistance or with voucher homeownership assistance. Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home.

The PHA may deny permission to move to a new unit with continued voucher:

- If the PHA has insufficient funding to provide continued assistance.
- In accordance with 24 C.F.R. 982.638, regarding denial or termination of assistance.
- In accordance with the PHA's policy regarding number of moves within a 12-month period.

The PHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

- The family defaulted on an FHA-insured mortgage; and
- The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and the family has moved, or will move, from the home within the period established or approved by HUD.

15-VII.N. Denial or Termination of Assistance

[24 C.F.R. 982.638]

At any time, the PHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 C.F.R. 982.552 (Grounds for denial or termination of assistance) or 24 C.F.R. 982.553 (Crime by family members).

The PHA may also deny or terminate assistance for violation of participant obligations described in 24 C.F.R. Parts 982.551 or 982.633 and in accordance with its own policy.

The PHA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

CHAPTER 16: PROGRAM ADMINISTRATION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in eight parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes what payment standards are, and how they are updated, as well as how utility allowances are established and revised.

Part III: Informal Reviews and Hearings. This part outlines the requirements and procedures for informal reviews and hearings, and for informal hearings regarding citizenship status.

Part IV: Owner or Family Debts to the PHA. This part describes policies for recovery of monies that the PHA has overpaid on behalf of families, or to owners, and describes the circumstances under which the PHA will offer repayment agreements to owners and families. Also discussed are the consequences for failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). This part describes what the SEMAP scores represent, how they are established, and how those scores affect a PHA.

Part VI: Record-Keeping. All aspects of the program involve certain types of record-keeping. This part outlines the privacy rights of applicants and participants and record retention policies the PHA will follow.

Part VII: Reporting and Record Keeping for Children with Environmental Intervention Blood Lead Level. This part describes the PHA's responsibilities for reporting, data collection, and record keeping relative to children with environmental intervention blood lead levels that are less than six years of age, and are receiving HCV assistance.

Part VIII: Determination of Insufficient Funding. This part describes the PHA's policies for determining if there is sufficient funding to issue vouchers, to approve moves to higher cost units or areas, and to continue assistance for all participant families.

PART I: ADMINISTRATIVE FEE RESERVE

[24 C.F.R. 982.155]

The PHA will maintain administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD for a PHA fiscal year. HUD appropriations acts beginning with FFY 2004 have specified that administrative fee funding may be used only for activities related to the provision of HCV assistance, including related development activities. Notice PIH 2012-9 cites two examples of related development activities: unit modification for accessibility purposes and development of project-based voucher units. The notice makes clear that other activities may also qualify as related development activities. Administrative fees that remain in the UNP account from funding provided prior to 2004 may be used for "other housing purposes permitted by state and local law," in accordance with 24 C.F.R. 982.155(b)(1).

If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the UNP Account and may direct the PHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 C.F.R. 982.155(b)(3).

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the UNP account without specific approval.

Authority Policy

Expenditures from the UNP account will be made in accordance with all applicable federal requirements. Expenditures will comply with the procurement plan approved by the 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).

Authority Policy

Copies of the payment standard and utility allowance schedules are available for review in the Authority's offices during normal business hours.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The Authority 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 C.F.R. 982.503; HCV GB, Chapter 7]

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 C.F.R. 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

Updating Payment Standards

When HUD updates its FMRs, the PHA must update its payment standards if the standards are no longer within the basic range [24 C.F.R. 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 C.F.R. 982.503(g)].

Authority Policy

The Authority 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 Authority will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

- **Funding Availability:** The Authority 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 Authority 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 Authority will consider increasing the payment standard. In evaluating rent burdens, the Authority will not include families renting a larger unit than their family unit size.

- **Quality of Units Selected: The** Authority will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.
- **Changes in Rent to Owner**: The Authority 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 Authority will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.
- **Lease-up Time and Success Rate:** The Authority will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

If the PHA has already processed reexaminations that will be effective on or after the newly established payment standard, the PHA will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by the PHA at the time the reexamination was originally processed.

Exception Payment Standards [982.503(c)]

The PHA must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any PHA with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

Unit-by-Unit Exceptions [24 C.F.R. 982.503(b), 24 C.F.R. 982.505(d), 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. (See Chapter 2 for a discussion of reasonable accommodations.) This type of exception does not affect the PHA's payment standard schedule.

When needed as a reasonable accommodation, the PHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed 120 percent of the applicable FMR for the unit size [24 C.F.R. 982.503(b)]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount exceeds 120 percent of the FMR.

Authority Policy

A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. In order to

approve an exception, or request an exception from HUD, the 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 30 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

The Authority will not approve any exceptions to the payment standard unless the family's portion of rent exceeds 30% of their adjusted monthly income.

"Success Rate" Payment Standard Amounts [24 C.F.R. 982.503(e)]

If a substantial percentage of families utilizing the tenant-based voucher program have difficulty finding a suitable unit, the PHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the PHA to set its payment standards at 90-110 percent of a higher FMR (the 50th, rather than the 40th percentile FMR). To support the request, the PHA must demonstrate that during the most recent 6- month period for which information is available:

- Fewer than 75 percent of families who were issued vouchers became participants;
- The PHA had established payment standards for all unit sizes, and for the entire jurisdiction, at 110 percent of the published FMR; and
- The PHA had a policy of allowing voucher holders who made sustained efforts to locate units at least 90 days to search for a unit.

Although HUD approves the success rate payment standard for all unit sizes in the FMR area, the PHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the PHA's jurisdiction within the FMR area. The success rate payment standard calculations does not apply to units in the project-based voucher program.

Decreases in the Payment Standard below the Basic Range [24 C.F.R. 982.503(d)]

The PHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds 30 percent of adjusted monthly income.

16-II.C. Utility Allowances

[24 C.F.R. 982.517]

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to the PHA about establishing utility allowance schedules.

Air Conditioning

An allowance for air-conditioning must be provided when the majority of housing units in the market have central air-conditioning or are wired for tenant-installed air conditioners.

Authority Policy

The Authority has included an allowance for air-conditioning in its schedule. Central air- conditioning or a portable air conditioner must be present in a unit before the Authority will apply this allowance to a family's rent and subsidy calculations.

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 (See Chapter 2 for policies regarding the request and approval of reasonable accommodations).

Utility Allowance Revisions

The PHA must review its schedule of utility allowances each year and must revise the schedule if there has been a change of 10 percent or more in any utility rate since the last time the allowance for that utility was revised.

The PHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

PART III: INFORMAL REVIEWS, HEARINGS, FILE REVIEWS AND OTHER REQUESTS FOR DATA

16-III.A. Overview

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of PHA decisions is called the "informal review." For participants (or applicants denied admission because of citizenship issues), the appeal process is called an "informal hearing." PHAs are required to include informal review procedures for applicants and informal hearing procedures for participants in their administrative plans [24 C.F.R. 982.54(d)(12) and (13)].

16-III.B. Informal Reviews

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement" [24 C.F.R. 982.554] 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

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 C.F.R. 982.554(a)]. Denial of assistance may include any or all of the following [24 C.F.R. 982.552(a)(2)]:

- 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;
- Denial of assistance based on an unfavorable history that may be the result of domestic violence, dating violence, sexual assault, or stalking. (See Section 3-III.G.).

Authority Policy

In addition to the above, the Authority will provide an opportunity for a review in the following circumstances:

- Denial of Section 504 or disability (Reasonable Accommodation)
- Informal reviews will ***not*** be provided for:
- Discretionary administrative determinations by the Authority.
- General policy issues or class grievances.
- A determination of the family unit size under the Authority

subsidy standards.

- Authority determination not to approve an extension of the voucher term.
- Authority determination not to grant approval of the tenancy.
- Authority determination that a unit selected by the applicant is not in compliance with housing quality standards.
- A PHA determination that the unit is not in accordance with housing quality standards because of the family size or composition.
- Denial of an add request.

The list of actions above for which informal reviews will not be provided is not exhaustive.

Notice to the Applicant [24 C.F.R. 982.554(a)]

The PHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the PHA 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

Authority Policy

A request for an informal review must be made in writing and delivered to the Authority either in person or by first class mail, postmarked, by the close of the business day, no later than 15 calendar days from the date on the Authority's denial of assistance.

The Authority must respond to the informal review within 15 calendar days of the family's request.

Informal Review Procedures [24 C.F.R. 982.554(b)]

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

The person conducting the review will make a recommendation to the Authority, but the Authority is responsible for making the final decision as to whether assistance should be granted or denied.

See "Authority Policy" below "Informal Review Decision" for the Authority's process on informal review and decision.

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

Authority Policy

In rendering a decision, the Authority will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice to the family.
- The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.
- The validity of the evidence. The Authority 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 Authority will uphold the decision to deny assistance.
- If the facts prove the grounds for denial, and the denial is discretionary, the Authority will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The Authority will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 15 calendar days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

16-III.C. Informal Hearings for Participants

[24 C.F.R. 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 has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of the 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.

The PHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed.

Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease;
- Terminating housing assistance payments under an outstanding HAP contract;
- Refusing to process or provide assistance under portability procedures.

Decisions Subject to Informal Hearing

Circumstances for which the 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 utility allowance schedule;
- A determination of the family unit size under the PHA's subsidy standards;
- A determination to terminate assistance for a participant family because of the family's actions or failure to act;
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under 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 C.F.R. 984.303(i)].

Authority Policy

In addition to the above, the Authority will provide an opportunity for a hearing in the following circumstances:

- Denial of Section 504 or disability (Reasonable Accommodation)
- A determination that the family owes the Authority debts due to failure to report changes in family composition or income within the required timeframe.

The Authority will not provide a hearing under the above circumstances until an adverse action has been taken by the Authority.

The Authority will not provide a hearing under the above circumstances until the Authority has made a determination on a specific request and a notice has been sent identifying the determination or as required by law.

The Authority will not provide a hearing for rent increases that result solely as a result of a landlord's request for a rent increase and where the tenant's income is not recalculated.

Disability complaints may also be filed directly with HUD.

Authority Policy

Victim of Domestic Violence: In hearings wherein the participant requesting the hearing is the alleged perpetrator of a domestic violence case and the reason for the hearing is a result of the alleged domestic violence, the alleged victim will be provided an opportunity to be a witness at the hearing.

The decision to be a witness or not is solely up to the witness. Both parties will not be in the same room. Alleged perpetrator or their counsel will have an opportunity to question the witness via an online platform such as Zoom, Teams, Google, etc. Witnesses shall enter and leave the hearing only for the portion of the hearing for which they are testifying and will not be provided access or a copy of the final decision. The witness will be provided with a summary of the hearing decision identifying whether the issue before the hearing officer was upheld or overturned.

Informal Hearing Procedures

Notice to the Family [24 C.F.R. 982.555(c)]

When the PHA makes 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 that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to the 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 on the decision, and a statement of the deadline for the family to request an informal hearing.

Authority Policy

In cases where the Authority 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 Authority.
- A brief statement of the reasons for the decision.
- A statement of the family's right to an explanation of the basis for the Authority'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.
- The family's rights under VAWA.

To whom the hearing request should be addressed. Scheduling an Informal Hearing [24 C.F.R. 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.

Authority Policy

A request for an informal hearing must be made in writing and delivered to the Authority either in person, by first class mail, or by email at the close of the business day, no later than 15 calendar days from the date of the correspondence initiating the request for a hearing.

The Authority must schedule and send written notice of the informal hearing to the family within 15 calendar days of the family's request.

Cancellation of the hearing must be made by the resident or the authorized representative in writing.

The family is permitted to request one reschedule of a hearing. The request must be made at least one business day prior to the scheduled hearing date and can be made orally or in writing.

If the family does not appear within 20 minutes of the scheduled time and was unable to reschedule the hearing, the family must contact the Authority within 24 hours of the scheduled hearing date, excluding weekends and holidays and the Authority may reschedule the hearing 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. *Good cause* is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

Pre-Hearing Right to Discovery [24 C.F.R. 982.555(e)]

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine, before the PHA 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.

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.

For the purpose of informal hearings, *documents* include records and regulations.

Authority Policy

The Authority will not copy a tenant file in preparation for a hearing but will allow the family to review the file and an opportunity to copy or scan documents needed in preparation for the hearing at a cost of $0.25 per page.

Both the family and the Authority have the right to review any documents that the opposing party intends to use or rely upon during the hearing. To exercise this right, each party must:

- Submit a written discovery request (i.e. Email) to the other party no later than 12:00 p.m. on the business day prior to the scheduled hearing date.
- Provide copies of all documents it intends to use or rely upon during the hearing no later than 3:00 pm on the same day of the request.

Any document not provided pursuant to this policy may not be introduced or relied upon during the hearing.

Participant's Right to Bring Counsel [24 C.F.R. 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 C.F.R. 982.555(e)(4)]

Informal hearings will be conducted by a person 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.

Authority Policy

Authority hearings will be conducted by a single hearing officer and not a panel.

A hearing shall be conducted by an impartial person or persons, appointed by the Authority, other than the person who made or approved the Authority action under review or a subordinate of such person.

Attendance at the Informal Hearing

Authority Policy

Hearings may be attended by a hearing officer and the following applicable persons:

- Authority representative(s) and any witnesses for the Authority;
- The participant and any witnesses for the participant;
- The participant's counsel or other representative;
- Any other person approved by the Authority 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 Authority's hearing procedures [24 C.F.R. 982.555(4)(ii)].

Authority 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 C.F.R. 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.

Authority Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing and must be directly related to the cause for the hearing. There are four categories of evidence.

(1) **Oral Evidence:** The testimony of witnesses. All witnesses shall be asked to swear or affirm that the information they are about to provide is true.

(2) **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.

(3) **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.

(4) **Real Evidence:** A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the Authority or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

Hearing Officer's Decision [24 C.F.R. 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.

Authority Policy

In rendering a decision, the hearing officer will consider the following matters:

- **Authority 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 Authority and the family were given the opportunity to examine any relevant documents in accordance with Authority policy.

- **Authority Evidence to Support the Authority's Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the Authority'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 Authority policies. If the grounds for termination are not specified in the regulations or in compliance with Authority policies, then the decision of the Authority will be overturned.

The hearing officer will issue a written decision to the family and the Authority no later than 15 calendar 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 Authority representative; and
    - Name of family representative (if any).
- **Background:** A brief, impartial statement of the reason for the hearing.
- **Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.
- **Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.
- **Analysis:** The hearing officer will provide an analysis of the Findings of Fact and determine which party has proved their argument by a preponderance of the evidence. The "Findings of Fact" and "Analysis" may be joined under the heading "Findings of Fact/Analysis."
- **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 Authority's decision.

- **Order:** The hearing report will include a statement of whether the Authority's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the Authority 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 Authority to restore the participant's program status.

In the case of overturning income and rent computations, the hearing officer will instruct the Authority to re-calculate the rent and/or income based on the documents originally submitted to the Authority at the time the calculations were completed. Income or expense documents submitted at the hearing but not available to the Authority at the time of calculation may not be used to overturn a previous calculation but will rather serve as the basis for a future interim calculation. The decision to overturn or uphold the Authority's action must be based on the income and supporting documents presented to the Authority at the time the rent calculation was conducted. Any additional documents submitted would become part of an interim calculation and will not affect the hearing decision.

In the case of a denial of reasonable accommodation request, the hearing officer may overturn a decision and require the Authority to re-consider the request or enter into negotiations with the family. The hearing officer is not authorized to make reasonable accommodation decisions on behalf of the Authority.

Recording of the Hearing

The Authority will record every hearing with a digital recorder or similar device. The family may record the hearing with their own device or request a copy from the Authority for a charge of $5.00.

Video recordings of the hearing are not permitted absent consent of all parties in the hearing room at the commencement of the hearing. If additional persons shall enter, they too must agree to a video recording of the hearing. Absent unanimous consent of video recording throughout the hearing by all parties present, a video recording of the hearing shall not be permitted.

Procedures for Rehearing or Further Hearing

Authority 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 Authority will take effect and another hearing will not be granted.

PHA Notice of Final Decision [24 C.F.R. 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.

Authority Policy

The Authority will mail a "Notice of Final Decision" including the hearing officer's report to the participant and their representative. There will be no further appeals after the "Notice of Final Decision" has been provided by the Authority. The hearing officer decision will be implemented within 60 calendar days. If the Authority determines that the hearing decision was contrary to federal, state, or local law, HUD regulations or requirements, the CEO or their designee will refrain from taking the action and will notify the participant within 30 calendar days of the date of the decision.

16-III.D. RAD Grievance Hearings:

RAD properties are required to provide a two-step grievance procedure for landlord/tenant concerns.

RAD properties may provide their own hearing officer for informal hearings but must use the Authority's hearing officers for the formal hearing.

RAD properties must follow the Administrative Plan hearing process and procedures for all hearings that are governed by the Housing Choice Voucher Administrative Plan.

16-III.E. Hearing and Appeal Provisions for Noncitizens

[24 C.F.R. 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, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the 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 C.F.R. 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 C.F.R. 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, but assistance may be delayed during the period of the informal hearing process.

USCIS Appeal Process [24 C.F.R. 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.

Authority Policy

The Authority will notify the family in writing of the results of the USCIS secondary verification within 15 calendar days of receiving the results.

The family must provide the Authority with a copy of the written request for appeal and proof of mailing within 15 calendar 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.

Authority Policy

The Authority will send written notice to the family of its right to request an informal hearing within 15 calendar days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants [24 C.F.R. 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 notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See Section 16-III.C for a listing of positions that serve as informal hearing officers.

Evidence

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

Authority Policy

The family will be allowed to copy or scan any documents related to the hearing at a cost of .25 per page. The family must request discovery of Authority documents no later than 12:00 p.m. on the business day prior to the hearing. The Authority may also request that the family provide all evidence, including the names of all witnesses expected at the hearing by 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. Upon request, the PHA will provide competent interpretation services, free of charge.

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.

Authority Policy

The Authority will not provide a transcript of an audio taped hearing.

Hearing Decision

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 15 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

Informal Hearing Procedures for Residents [24 C.F.R. 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 notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being

terminated based on immigration status, see Section 16-III.C.

Retention of Documents [24 C.F.R. 5.514(h)]

The PHA must retain for a minimum of 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 PHA informal hearing process:

- The application for assistance;
- The form completed by the family for income reexamination;
- Photocopies of any original documents, including original USCIS documents;
- The signed verification consent form;
- The USCIS verification results;
- The request for a USCIS appeal;
- The final USCIS determination;
- The request for an informal hearing;
- The final informal hearing decision.

16-III.F. File Review

The Authority will review all requests for records.

Tenant/Participant File

Tenants/Participants are able to view their tenant files, notes in the Authority's operating system, and any confidential files (see Chapter 2) at any time during business hours. Only requests by the Head of Household will be honored unless the issue brought to hearing is between members of the same household. In the case where the dispute is with members of the same household, the Authority will provide access to the tenant file to those members of the household involved in the dispute whose housing stability is at risk. An appointment to review the file is required and must be made in writing to customercare@sfha.org.

When making the request, clearly provide the file(s) being requested if the tenant/participant has been in more than one program. A file review will be scheduled within fifteen (15) calendar days of the request. Additionally, the address of the household for which the file is requested must be provided along with any previous names the tenant may have used.

Tenants/Participants will be provided with the opportunity to copy any files needed at a rate of .25 cents per page. Payment is due at the time copies are retrieved.

Subpoena(s)

All subpoenas must be provided to the Authority's legal team. The legal team will review the subpoena and determine whether the requested items/person is available by the deadline provided. Where copies are needed, and a cost is allowable, the cost will be .25 cents per page. Where depositions are necessary, the Authority will charge the maximum allowable rate for the employees time.

Public Records

Public records requests will be reviewed as they arrive. Where copies are requested, the Authority will charge .25 cents per page plus any staff time required to prepare the responses as allowable by state and local law. Payment is due at the time copies are retrieved.

PART IV: OWNER OR FAMILY DEBTS TO THE PHA

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 C.F.R. 982.54]. This part describes the PHA's policies for recovery of monies owed to the PHA by families or owners.

Authority Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the Authority holds the owner or participant liable to return any overpayments to the Authority.

The Authority will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

Participants who have been referred or approved for an emergency move must enter into a repayment agreement for debt owed prior to moving. The repayment agreement is an exception to the rule that would otherwise deny the participant a move with debt. Missed payments will result in termination of subsidy.

When an owner or participant refuses to repay monies owed to the Authority, the Authority 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.

16-IV.B. Repayment Policy

Authority Policy

Any amount due to the Authority by an owner must be repaid by the owner within 30 days of the Authority determination of the debt.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the Authority will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner is not entitled to future HAP payments the Authority may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed

by the Authority.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement. If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the Authority, the Authority will ban the owner from future participation in the program and pursue other modes of collection.

Due Dates

Authority Policy

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

Late or Missed Payments

Authority Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the Authority, the Authority will send the owner a delinquency notice giving the owner 15 calendar days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the Authority will pursue other modes of collection including reduction of future HAP payments, if any.

If the owner receives three delinquency notices for unexcused late payments in a 12- month period, the repayment agreement will be considered in default, and the Authority will pursue other modes of collection including reduction of future HAP payments, if any.

Family Debts to the PHA

Authority 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 calendar days, the PHA will offer to enter into a repayment agreement in accordance with the policies below.

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the PHA will terminate assistance in accordance with the policies in Chapter 12 and pursue other modes of collection.

Individuals applying to another PHA program or requesting evidence of good standing for a program outside of the Authority, who are no longer participants in the public housing program or HCV program but maintain a debt with the Authority, must pay 50% of the total debt owed at the time the repayment

agreement is entered into and agree to a minimum of 7.5% monthly payment until the debt is paid in full.

Repayment Agreement [24 C.F.R. 792.103]

The term *repayment agreement* refers to a formal written document signed by a tenant or owner and provided to the PHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

General Repayment Agreement Guidelines for Families

Down Payment Requirement

Authority Policy

Before executing a repayment agreement with a family, the Authority will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the Authority that a down payment of 10 percent would impose an undue hardship, the Authority may, in its sole discretion, require a lesser percentage or waive the requirement.

Payment Thresholds

Notice PIH 2010-19 recommends that the total amount that a family must pay each month—the family's monthly share of rent plus the monthly debt repayment amount—should not exceed 40 percent of the family's monthly adjusted income. However, a family may already be paying 40 per cent or more of its monthly adjusted income in rent. Moreover, Notice PIH 2010-19 acknowledges that PHAs have the discretion to establish "thresholds and policies" for repayment agreements with families [24 C.F.R. 982.552(c)(1)(vii)].

Authority Policy

The Authority has established the following thresholds for repayment of debts:

- Amounts between $3,000 and the federal or state threshold for criminal prosecution must be repaid within 36 months.
- Amounts between $2,000 and $2,999 must be repaid within 30 months.
- Amounts between $1,000 and $1,999 must be repaid within 24 months.
- Amounts under $1,000 must be repaid within 12 months.

If a family can provide evidence satisfactory to the Authority that the threshold applicable to the family's debt would impose an undue hardship, the Authority may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the Authority will consider all relevant information, including the following:

- The amount owed by the family to the Authority.
- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control.
- The family's current and potential income and expenses.

- The family's current family share, as calculated under 24 C.F.R. 982.515.
- The family's history of meeting its financial responsibilities.

Execution of the Agreement

Authority Policy

Any repayment agreement between the Authority and a family must be signed and dated by the Authority and by the head of household and spouse/co-head (if applicable).

Due Dates

Authority Policy

All payments are due by the close of business on the 15th day of the month. If the 15th does not fall on a business day, the due date is the close of business on the first business day after the 15th.

Late or Missed Payments

Authority Policy

If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by the Authority, the Authority will send the family a delinquency notice giving the family 15 calendar days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the PHA will terminate assistance in accordance with the policies in Chapter 12.

If a family receives three delinquency notices for unexcused late payments in a 12-month period, the repayment agreement will be considered in default, and the Authority will terminate assistance in accordance with the policies in Chapter 12.

No Offer of Repayment Agreement

Authority Policy

The Authority generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

Repayment Agreements Involving Improper Payments

Notice PIH 2010-19 requires certain provisions to be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

- A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which the

PHA may terminate assistance because of a family's action or failure to act.

- A statement clarifying that each month the family not only must pay to the PHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner.
- A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases.
- A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance.

PART V: SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

16-V.A. Overview

The Section 8 Management Assessment Program (SEMAP) is a tool that allows HUD to measure PHA performance in key areas to ensure program integrity and accountability. SEMAP scores translate into a rating for each PHA as high performing, standard, or troubled. Scores on individual SEMAP indicators, as well as overall SEMAP ratings, can affect the PHA in several ways.

High-performing PHAs can be given a competitive advantage under notices of funding availability [24 C.F.R. 985.103].

PHAs with deficiencies on one or more indicators are required to correct the deficiencies and report to HUD [24 C.F.R. 985.106].

PHAs with an overall rating of "troubled" are subject to additional HUD oversight, including on- site reviews by HUD staff, a requirement to develop a corrective action plan, and monitoring to ensure the successful implementation of the corrective action plan. In addition, PHAs that are designated "troubled" may not use any part of the administrative fee reserve for other housing purposes [24 C.F.R. 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 C.F.R. 985.109].

16-V.B. SEMAP Certification

[24 C.F.R. 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 CEO. 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.

A PHA that subcontracts administration of its program to one or more subcontractors shall require each subcontractor to submit the subcontractor's own SEMAP certification on the HUD-prescribed form to the PHA in support of the PHA's SEMAP certification to HUD. The PHA shall retain subcontractor certifications for 3 years.

PHAs with less than 250 voucher units are only required to be assessed every other PHA fiscal year. HUD will assess such PHAs annually if the PHA elects to have its performance assessed on an annual basis; or is designated as "troubled" [24 C.F.R. 985.105].

Failure of a PHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of "troubled."

A PHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

Upon receipt of the PHA's SEMAP certification, HUD will rate the PHA's performance under each SEMAP indicator in accordance with program requirements.

HUD Verification Method

Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. The PHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements [24 C.F.R. 985.2].

If the HUD verification method for the indicator relies on data in the Form-50058 module (formerly known as MTCS) in the PIH Information Center (PIC), and HUD determines that those data are insufficient to verify the PHA's certification on the indicator due to the PHA's failure to adequately report family data, HUD will assign a zero rating for the indicator [24 C.F.R. 985.3].

16-V.C. SEMAP Indicators

[24 C.F.R. 985.3 and form HUD-52648]

The table below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

A PHA that expends less than $300,000 in Federal awards and whose Section 8 programs are not audited by an independent auditor, is not be rated under SEMAP indicators 1-7.

SEMAP Indicators
Indicator 1: Selection from the Waiting List **Maximum Score: 15** • This indicator shows whether the PHA has written policies in its administrative plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants for admission from the waiting list. • Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control sample.

Indicator 2: Rent reasonableness

Maximum Score: 20

- This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units
- Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.

Indicator 3: Determination of adjusted income

Maximum Score: 20

- This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.
- Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.

Indicator 4: Utility allowance schedule Maximum Score: 5

- This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.
- Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.

Indicator 5: HQS quality control inspections

Maximum Score: 5

- This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.
- Points are based on whether the required quality control reinspections were completed, according to the PHA's certification.

Indicator 6: HQS enforcement Maximum

Score: 10

- This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.
- Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA's certification.

Indicator 7: Expanding housing opportunities

Maximum Points: 5

- Only applies to PHAs with jurisdiction in metropolitan FMR areas.
- This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority

concentration.

- Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

Indicator 8: FMR limit and payment standards

Maximum Points: 5 points

- This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.
- Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.

Indicator 9: Annual reexaminations

Maximum Points: 10

- This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.
- Points are based on the percent of reexaminations that are more than 2 months overdue, according to data from PIC.

Indicator 10: Correct tenant rent calculations

Maximum Points: 5

- This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.
- Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

Indicator 11: Pre-contract HQS inspections

Maximum Points: 5

- This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.
- Points are based on the percent of newly leased units that passed HQS inspection prior to the effective date of the lease and HAP contract, according to data from PIC.

Indicator 12: Annual HQS inspections Maximum

Points: 10

- This indicator shows whether the PHA inspects each unit under contract at least annually.
- Points are based on the percent of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

Indicator 13: Lease-up Maximum

Points: 20 points

- This indicator shows whether the PHA enters HAP contracts for at least 98 percent of the number of the PHA's baseline voucher units in the ACC for the calendar year ending on or before the PHA's fiscal year, or whether the PHA has expended at least 98 percent of its allocated budget authority for the same calendar year. The PHA can receive 15 points if 95 to 97 percent of vouchers are leased or budget authority is utilized.
- Points are based on utilization of vouchers and HAP expenditures as reported in the voucher management system (VMS) for the most recently completed calendar year.

Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances

Maximum Points: 10

- Only applies to PHAs with mandatory FSS programs.
- This indicator shows whether the PHA has enrolled families in the FSS program as required and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.
- Points are based on the percent of mandatory FSS slots that are filled and the percent of families with escrow account balances, according to data from PIC.

Success Rate of Voucher Holders

Maximum Points: 5

- Only applies to PHAs that have received approval to establish success rate payment standard amounts and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.
- This indicator shows whether voucher holders were successful in leasing units with voucher assistance.
- Points are based on the percent of families that were issued vouchers, and that became participants in the voucher program.

Deconcentration Bonus Indicator Maximum

Points: 5

- Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50th percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile.
- Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.
- Points are based on whether the data that is submitted meets the requirements for bonus points.

PART V: RECORD KEEPING & CORRESPONDENCE MANAGEMENT

16-V.A. Overview

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

16-V.B. Correspondence Mailed and Received

Authority Policy

All correspondence mailed from the Authority will be considered mailed by the date of the notice and will be considered received by the intended party within 5 calendar days of the notice. The Authority will maintain a copy of every correspondence mailed to the family in accordance with the Record Retentions policies contained in this Plan.

All correspondence received by the Authority from a participant, owner, or the general public will be stamped by the Authority with the date it was actually received and will be placed in record and maintained in accordance with the policies contained in this Plan.

16-V.C. Record Retention

[24 C.F.R. 982.158]

During the term of each assisted lease, and for at least five years thereafter, the PHA must keep:

- A copy of the executed lease;
- The HAP contract; and
- The application from the family.

In addition, the PHA must keep the following records for at least three years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 C.F.R. 35, Subpart B.
- Accounts and other records supporting PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and

- Other records specified by HUD.

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.

16-V.D. Records Management

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

Authority Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized Authority staff.

Authority staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

Participants should have no liability in their assistance being terminated in the case of a scanned document becoming corrupted or failing to be digitized before any hard copy of such document is shredded.

Privacy Act Requirements [24 C.F.R. 5.212 and Form-9886]

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or 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*.

Authority Policy

Prior to utilizing HUD's EIV system, the Authority will adopt and implement EIV security procedures required by HUD.

Criminal Records

The PHA may only disclose the criminal conviction records which the PHA receives from a law enforcement agency to officers or employees of the PHA, or to authorized representatives of

the PHA who have a job-related need to have access to the information [24 C.F.R. 5.903(e)].The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 C.F.R. 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH 2012-28]. This requirement does not apply to information that is public information, or is obtained by a PHA other than under 24 C.F.R. 5.905.

Medical/Disability Records

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

For requirements and PHA policies related to management of documentation obtained from victims of domestic violence, dating violence, sexual assault, or stalking, see section 16-IX.E.

PART VI: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

16-VI.A. Overview

The PHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

16-VI.B. Reporting Requirement

[24 C.F.R. 35.1225(e)]

The PHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within seven (7) calendar days of being so notified by any other medical health care professional.

Authority Policy

The Authority will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

16-VI.C. Data Collection and Record Keeping

[24 C.F.R. 35.1225(f)]

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

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, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

Authority 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 Authority is not providing such a report.

PART VIII: DETERMINATION OF INSUFFICIENT FUNDING

16-VIII.A. Overview

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 C.F.R. 982.354(e)(1) and 982.454]. If a PHA denies a family a portability move based on insufficient funding, the PHA is required to notify the local HUD office within 10 business days [24 C.F.R. 982.354]. Insufficient funding may also impact the PHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

16-VIII.B. Methodology

Authority Policy

The Authority 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 Authority'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 Authority will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority, or if the Authority cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the Authority will be considered to have insufficient funding.

CHAPTER 17:
PROJECT-BASED VOUCHERS AND RENTAL ASSISTANCE DEMONSTRATION PROGRAM

This chapter describes HUD regulations and PHA policies related to the project-based voucher (PBV) program and the Rental Assistance Demonstration (RAD) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals for PBV assistance. It describes the factors the PHA will consider when selecting proposals, the type of housing that is eligible to receive PBV assistance, the cap on assistance at projects receiving PBV assistance, subsidy layering requirements, site selection standards, and environmental review requirements.

Part III: Dwelling Units. This part describes requirements related to NSPIRE standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the PHA's discretion.

Part VI: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VII: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move. In addition, exceptions to the occupancy cap (which limits PBV assistance to 25 percent of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

17-I.A. Overview

[24 C.F.R. 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 authorized units and attach the funding to specific units rather than using it for tenant- based assistance [24 C.F.R. 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)].

Authority Policy

The Authority will operate a project-based voucher program using up to 20 percent of its authorized units for project-based assistance. The Authority will not enter into a PBV contract for less than four (4) units.

A "project" shall be defined as a single building, or as multiple contiguous buildings, or as multiple buildings on contiguous parcels of land.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 C.F.R. 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (AHAP) or a HAP contract, the PHA is not required to reduce the number of these units if the amount of authorized units is subsequently reduced. However, the PHA is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC, regardless of whether the PHA has vouchers available for project-basing [FR Notice 1/18/17].

Additional Project-Based Units [FR Notice 1/18/17]

The PHA may project-base an additional 10 percent of its units above the 20 percent program limit, 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).
- 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 C.F.R. 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.

Authority Policy

The Authority will set aside units above the 20 percent program limit, up to 30 percent. The Authority will not exceed the program limits in accordance with the regulations described in 24 CFR Part 983.

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. In order to be accepted, the unit must meet the following conditions:

- The unit must be covered under a PBV HAP contract that first became effective on or after 4/18/17; and
- In the five years prior to the date the PHA either issued the RFP or selected the project, the unit either:
    - Received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for Elderly (Section 202), Housing for Persons with Disabilities (section 811), Rent Supplement (Rent Supp), or Rental Assistance Program (RAP); or
    - The unit was subject to a rent restriction through a loan or insurance program as a result of Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for Elderly Persons (Section 202), or Housing for Persons with Disabilities (Section 811)

Units that have previously received either PBV or HCV assistance are not covered under the exception.

Authority Policy

The Authority will not project-base any of the above unit types. The Authority will only issue PBV's in accordance with 24 CFR Part 983 and PIH Notice 2017-21.

17-I.B. Tenant-Based vs. Project-Based Voucher Assistance

[24 C.F.R. 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 C.F.R. 983.2.

Authority Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the Authority 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 C.F.R. 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 C.F.R. Part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. PHAs may not use voucher program funds to cover relocation costs, except that PHAs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 C.F.R. 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 C.F.R. part 24, subpart B. It is the responsibility of the PHA to ensure the owner complies with these requirements.

Authority Policy

For families approved to move to a new unit within the Authority's jurisdiction, the Authority will issue a new voucher within 15 calendar days of the Authority's written approval to move. A briefing may be required for these families. The Authority 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 their voucher term and in accordance with the lease and the Housing Assistance Payment Contract, the family may lose its assistance. The tenant must notify the landlord within 15 calendar days and provide the Authority with the mutual agreement form or their voucher will be automatically terminated.

For families moving into or families approved to move out of the Authority's jurisdiction under portability, the Authority will follow the policies set forth in Part II of this chapter.

17-I.D. Equal Opportunity Requirements

[24 C.F.R. 983.8]

The PHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 C.F.R. 5.105(a). In addition, the PHA must comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: SELECTION OF PBV OWNER PROPOSALS

17-II.A. Overview

With certain exceptions, the PHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals [24 C.F.R. 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 C.F.R. 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 C.F.R. 983.56], and meets the site selection standards [24 C.F.R. 983.57]. The PHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 C.F.R. 983.51 [Notice PIH 2011-54].

17-II.B. Competitive Selection of Proposals

[24 C.F.R. 983.51(b)]

The PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan. The PHA must select PBV proposals by either of the following two methods.

- PHA request for PBV Proposals. The PHA may solicit proposals by using a request for proposals (RFP) to select proposals on a competitive basis in response to the PHA request. The PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.

- The PHA may select, without issuing an RFP, proposal that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. The PHA need not conduct another competition.

Units Selected Non-Competitively [FR Notice 1/18/17]

For certain public housing projects where the PHA has an ownership interest or control and will spend a minimum amount per unit on rehabilitation or construction, the PHA may select a project without following one of the two processes above.

Authority Policy

The Authority may attach PBVs to projects owned by the Authority as described above.

Solicitation and Selection of PBV or RAD Proposals [24 C.F.R. 983.51(c)]

PHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by the PHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice. The public notice of the PHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

Authority Policy

Authority Request for Proposals for Rehabilitated and Newly Constructed Units

The Authority will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in adherence with the Authority Procurement policy.

The solicitation will specify the number of units the Authority estimates that it will be able to assist under the funding the Authority is making available.

In order for the proposal to be considered, the owner must submit the proposal to the Authority 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 Authority will rate and rank proposals for rehabilitated and newly constructed housing.

Owner experience and capability to build or rehabilitate housing as identified in the RFP;

Extent to which the project furthers the Authority goal of deconcentrating poverty and expanding housing and economic opportunities;

If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

Projects with less than 25 percent of the units assisted will be rated higher than projects with 25 percent of the units assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the Authority will rate partially assisted projects on the percent of units assisted. Projects with the lowest percent of assisted units will receive the highest score.

Authority Requests for Proposals for Existing Housing Units

The Authority will advertise its request for proposals (RFP) for existing housing in adherence with the Authority Procurement policy. The solicitation will specify the number of units the Authority estimates that it will be able to assist under the funding the Authority is making available. Owner proposals 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 Authority'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.

Authority Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The Authority will accept proposals for PBV assistance from owners that were competitively selected under another federal, state, or local government housing assistance, including projects that were competitively awarded Low-Income Housing Tax Credits, community development, or supportive services program(s) where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. In these cases, assistance can be awarded non- competitively and posted for Public Notification.

Non-Competitive proposals can be presented to the Authority at any time. Owners are not required to wait until a Request for Proposals is published to present a proposal for consideration under the guidelines of non- competitive selection.

The Authority may periodically advertise that it is accepting proposals as described above.

In addition to, or in place of advertising, the Authority 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 and will be awarded based on the availability of funding. The Authority will review each proposal on its merits using the following factors:

- Extent to which the project furthers the Authority 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, or Renewal Community.

VASH Proposal Selection Process

All PBV HUD VASH units must be endorsed by the Department of Veterans Affairs. It is the Authority's Policy to review all proposals submitted for PBV VASH, ranking each proposal against the common criteria as well as the mandatory selection criteria used for VASH proposals.

To minimize delay in providing assisted housing for eligible veterans, the Authority will review and rank all proposals and only the highest scoring proposals will be presented to the Department of Veterans Affairs for endorsement.

Proposals that receive endorsement from the Department of Veteran Affairs will be sent to the Department of Housing and Urban Development for Final approval.

PHA-Owned Units [24 C.F.R. 983.51(e), 983.59, Notice PIH 2015-05, and FR Notice 1/18/17]

A PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the PHA- owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations and inspections.

In the case of PHA-owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by the PHA and a HUD-approved independent entity. In addition, an independent entity must determine the rent to owner, the redetermined rent to owner, and reasonable rent. Housing quality standards inspections must also be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

Authority Policy

The Authority will use an independent entity approved by HUD, to perform required rent determinations and housing quality standards inspections in PBV program units where the Authority has an identity of interest in the property.

PBV program units may be based on a geographical area covering multiple sites located within that geographical area. The Authority may only compensate the independent entity and appraiser from Authority ongoing administrative fee income (including amounts credited to the administrative fee reserve). The Authority may not use other program receipts to compensate the independent entity and appraiser for their services. The Authority, independent entity, and appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity.

PHA Notice of Owner Selection [24 C.F.R. 983.51(d)]

The PHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

Authority Policy

Within 15 calendar days of the Authority making the selection, the Authority will notify the selected owner in writing of the owner's selection for the PBV program. The Authority will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

The Authority will make available to any interested party its rating and ranking sheets and documents that identify the Authority 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 Authority will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The Authority will make these documents available for review at the Authority during normal business hours. The cost for reproduction of allowable documents will be $.25 per page.

17-II.C. Housing Type

[24 C.F.R. 983.52]

The PHA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of PHA selection, the units substantially comply with NSPIRE.

Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

The PHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. The PHA choice of housing type must be reflected in its solicitation for proposals.

Authority Policy

Participants who require a change in household composition or bedroom size through a reasonable accommodation request must submit their reasonable accommodation request to the Authority. All other reasonable accommodation requests for referrals not requiring a change in household composition or bedroom size shall be submitted directly to the property office and, if approved, the property office shall inform the Authority to process the unit change once a unit has been identified.

If a Reasonable Accommodation is requested in a RAD/PBV unit, the following will occur:

(1) The Authority will follow the Reasonable Accommodation process outlined in Chapter 2;

(2) If the reasonable accommodation for a referral is approved due to a change in household composition or bedroom size, the Authority will inform the participant that they need to go back to their property office to determine whether another unit is available within the building. This determination is entirely at the discretion of the property office/landlord and does not involve the Authority.

(3) If a unit is available, the Participant must ask the Authority for a Request for Transfer Approval (RTA), the Authority will provide the RTA form and, upon receipt from the participant, will then inspect the unit. Once the unit passes inspection, the Participant will move in and the RA will be closed.

(4) If approved, but a unit is not available within the same building, the Participant may ask the property manager/developer whether another property within their portfolio is available to move to. This determination is entirely at the discretion of the property office/landlord and does not involve the Authority. If a unit is available, the Participant must ask the Authority for a Request for Transfer Approval (RTA), the Authority will provide the RTA form, and upon receipt from the Participant, will then inspect the unit. Once the unit passes inspection, the Participant will move in and the RA will be closed.

If approved but neither three (3) or four (4) are an option, the Participant may continue looking for other opportunities. The Authority does not provide assistance in locating additional units for Participants to transfer to nor does it maintain a separate waitlist for these requests.

If denied, the Authority will inform the Participant of the denial.

17-II.D. Prohibition of Assistance for Certain Units

Ineligible Housing Types [24 C.F.R. 983.53]

The PHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; 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. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

Subsidized Housing [24 C.F.R. 983.54]

A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the PHA in accordance with HUD requirements.

17-II.E. Subsidy Layering Requirements

[24 C.F.R. 983.55, FR Notice 11/24/08, FR Notice 7/9/10, and FR Notice 6/25/14]

The PHA may provide PBV assistance only in accordance with HUD subsidy layering regulations [24 C.F.R. 4.13] and other requirements.

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

Subsidy layering requirements do not apply to existing housing. A further subsidy layering review is not required for new construction or rehabilitation if HUD's designee has conducted a review that included a review of PBV assistance in accordance with the PBV subsidy layering guidelines.

The Authority must submit the necessary documentation to HUD for a subsidy layering review. Except in cases of HAP contracts for existing structures, or if such reviews have been conducted by the applicable state and local agencies (defined by HUD as qualified housing credit agencies,

or HCAs), the Authority may not enter into an agreement to enter into a HAP contract or a HAP contract until HUD, or an independent entity approved by HUD, has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. However, in order to satisfy applicable requirements, HCAs must conduct subsidy layering reviews in compliance with the guidelines set forth in the Federal Register notice published July 9, 2010.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

17-II.F. CAP on Number of PBV Units in Each Project

25 Percent per Project Cap [24 C.F.R. 983.56]

The PHA will not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of 25 units or 25 percent of the number of dwelling units (assisted or unassisted) in the project.

Exceptions to 25 Percent per Project Cap [FR Notice 1/18/17]

Exceptions are allowed and PBV units are not counted against the 25 percent or 25-unit per project cap if:

- The units are exclusively for elderly families;
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project;
- The project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates.

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services. Projects where these caps were implemented prior to HOTMA may continue to use the former exemptions and may renew their HAP contracts under the old requirements, unless the PHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family’s eligibility for continued assistance in the project.

PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. The project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit. It is not necessary that the services be provided at or by the project, but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. A PHA may not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered.

If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit has received, FSS supportive services or any other supportive services as defined in the PHA administrative plan, and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit.

Authority Policy

The Authority may provide PBV assistance for excepted units.

To be eligible for this service exception, the Authority will evaluate as part of an owner's proposal, the type and extent of services to be provided based on the targeted population currently living or expected to live in the project. It is expected that a project must provide, at minimum and to the excepted units, one or more for the following services:

- Child Care/Early Childhood Education;
- Transportation or Transportation Assistance;
- Education/ESL Services;
- Technology Access/Skill Development;
- Job Training, Vocational Skills Training and/or Employment Counseling;
- Substance/Alcohol Abuse Treatment or Counseling;
- Health Care Support and Management;
- Household Skill Trainings (Housekeeping & Homemaking);
- Homeownership Counseling;
- Financial Empowerment/Family Budgeting;
- Peer Support Groups;
- Parenting Skills/Parent Support;
- Housing Stability Assistance/Support;
- Community Building Events and Activities;
- Nutrition Education and/or Support;
- Legal Resource/Referral Services;
- Resident Leadership Activities/Volunteerism;
- Health and Wellness Activities;
- Afterschool/summer Youth Activities;
- Violence Prevention Activities;
- Service Connection/Case Management.

The Authority will require that the owner monitor its supportive services requirement monthly and submit an annual report, at the time of rent-increase or contract renewal, a report listing the families, the types of serviced provided and accessed, and the frequency of the that access, and the effect of the access.

Projects not Subject to a Project Cap [FR Notice 1/18/17]

PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, 100 percent of the units in these projects may receive PBV assistance. To qualify for the exception, the unit must:

Be covered by a PBV HAP contract that first became effective on or after 4/18/17; and

In the five years prior to the date the PHA either issued the RFP under which the project was selected or the PHA selected the project without competition, the unit met at least one of the two following conditions:

The unit received Public Housing Capital or Operating Funds, Project-Based Rental Assistance, Housing for the Elderly (Section 303), Housing for Persons with disabilities (Section 811), the Rental Supplement program,

The unit was subject to a rent restriction as a result of one of the following HUD loans or insurance programs: Section 236, Section 221(d)(3) or (d)(4) BMIR, Housing for the Elderly (Section 202), or Housing for Persons with Disabilities (Section 811)

Units that were previously receiving PBV assistance are not covered by the exception. Both existing and rehabilitation units are eligible for this exception. Newly constructed units qualify if they meet the definition of *replacement unit* described in FR Notice 1/18/17.

Authority Policy

The Authority does not have any PBV units that are subject to the per project cap exception.

Promoting Partially-Assisted Buildings [24 C.F.R. 983.56(c)]

A PHA may establish local requirements designed to promote PBV assistance in partially assisted projects. A *partially assisted project* is a project in which there are fewer units covered by a HAP contract than residential units [24 C.F.R. 983.3].

A PHA may establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project containing excepted units or in a single- family building. A PHA may also determine not to provide PBV assistance for excepted units, or the PHA may establish a per-project cap of less than 25 percent.

Authority Policy

The Authority will provide assistance for excepted units. Beyond that, the Authority will not impose any further cap on the number of PBV units assisted per building.

17-II.G. Site Selection Standards

Compliance with PBV Goals, Civil Rights Requirements, and NSPIRE Site Standards [24 C.F.R. 983.57(b)]

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 C.F.R. 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the NSPIRE site and neighborhood standards at 24 C.F.R. 982.401(l).

Authority Policy

It is the Authority'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 Authority will limit approval of sites for PBV housing in census tracts that have poverty concentrations of 20 percent or less.

However, the Authority will grant exceptions to the 20 percent standard where the Authority 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, 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, HOPE SF, redevelopment;
- A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;
- A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;
- A census tract where there has been an overall decline in the poverty rate within the past five years; or
- A census tract where there are meaningful opportunities for educational and economic advancement.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 C.F.R. 983.57(d)]

The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

- Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;
- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

New Construction Site and Neighborhood Standards [24 C.F.R. 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 C.F.R. 983.58]

The PHA activities under the PBV program are subject to HUD environmental regulations in 24 C.F.R. parts 50 and 58. The responsible entity is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 C.F.R. 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 C.F.R. 58.5.

The PHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the PHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The PHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The PHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

PART III: DWELLING UNITS

17-III.A. Overview

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

17-III.B. National Standards for the Physical Inspection of Real Estate (NSPIRE)

[24 C.F.R. 983.101]

The housing quality standards for the tenant-based program, including those for special housing types, generally apply to the PBV and RAD 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.

The physical condition standards at 24 C.F.R. 5.703 do not apply to the PBV program.

Lead-based Paint [24 C.F.R. 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 C.F.R. part 35, subparts A, B, H, and R, 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 C.F.R. part 8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 C.F.R. 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 C.F.R. 100.205, as applicable. (24 C.F.R. 983.102)

17-III.D. Inspecting Units

Pre-selection Inspection [24 C.F.R. 983.103(a)]

The PHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with 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 units fully comply 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, 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.

Pre-HAP Contract Inspections [24 C.F.R. 983.103(b); FR Notice 1/18/17]

The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not enter into a HAP contract covering a unit until the unit fully complies with 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.

Authority Policy

The Authority will enter into a PBV HAP contract when all units that will be under contract comply with NSPIRE standards for life-threatening conditions as defined in Chapter 8.

Turnover Inspections [24 C.F.R. 983.103(c)]

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with NSPIRE.

Annual/Biennial Inspections [24 C.F.R. 983.103(d); FR Notice 6/25/14]

At least once every 24 months during the term of the HAP contract, the PHA must inspect a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with NSPIRE. Turnover inspections are not counted toward meeting this inspection requirement.

Authority Policy

The Authority 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 sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

Other Inspections [24 C.F.R. 983.103(e)]

The PHA must inspect contract units whenever needed to determine that the contract units comply with NSPIRE and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an NSPIRE violation and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of NSPIRE.

In conducting PHA supervisory quality control NSPIRE inspections, the PHA should include a representative sample of both tenant-based and project-based units.

Inspecting PHA-Owned Units [24 C.F.R. 983.103(f)]

In the case of PHA-owned units, the inspections must be performed by an independent agency designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

17-IV.A. Overview

[24 C.F.R. 983.15]

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

17-IV.B. Agreement to Enter Into HAP Contract

In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 C.F.R. 983.152(b)].

The PHA may not enter into an Agreement if commencement of construction or rehabilitation has commenced after proposal submission [24 C.F.R. 983.152(c)]. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing.

Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

In the Agreement the owner agrees to develop the PBV contract units to comply with 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 C.F.R. 983.152(a)].

Content of the Agreement [24 C.F.R. 983.152(d)]

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units,

the description must include the rehabilitation work write up and, where determined necessary by 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.

Execution of the Agreement [24 C.F.R. 983.153]

The Agreement must be executed promptly after PHA notice of proposal selection to the selected owner. The PHA may not enter into the Agreement if construction or rehabilitation has started after proposal submission. 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 existing housing or if the applicable state or local agency has conducted such a review. Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.

Authority Policy

The Authority will enter into the Agreement with the owner within 90 calendar 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 C.F.R. 983.154(b)]

If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis- Bacon wages to laborers and mechanics employed in the development of housing. The HUD- prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 C.F.R. part 5, and other applicable federal labor relations laws and regulations. The PHA must monitor compliance with labor standards.

Equal Opportunity [24 C.F.R. 983.154(c)]

The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 C.F.R. part 135. The owner must also comply with federal equal employment opportunity requirements.

Owner Disclosure [24 C.F.R. 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 C.F.R. 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.

Authority Policy

The Authority 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 Authority will specify any additional documentation requirements in the Agreement to enter into HAP contract.

PHA Acceptance of Completed Units [24 C.F.R. 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 and any additional requirements imposed under the Agreement. The PHA must also determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP contract.

If the PHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

17-V.A. Overview

The PHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. With the exception of single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD [24 C.F.R. 983.202(a)].

17-V.B. HAP Contract Requirements

Contract Information [24 C.F.R. 983.203]

The HAP contract must specify the following information:

- The total number of contract units by number of bedrooms;
- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;
- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 C.F.R. part 8;
- The HAP contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and
- The initial rent to owner for the first 12 months of the HAP contract term.

Execution of the HAP Contract [24 C.F.R. 983.204]

The PHA may not enter into a HAP contract until each contract unit has been inspected and the PHA has determined that the unit complies with inspection standards, 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. For existing housing, the HAP contract must be executed promptly after the PHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the PHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to

enter into HAP, and the owner furnishes all required evidence of completion.

Authority Policy

The HAP contract must be signed on or before the effective date.

For existing housing, the HAP contract will be executed within 120 calendar days of the Authority determining that all units pass NSPIRE.

For rehabilitated or newly constructed housing, the HAP contract will be executed within 120 calendar days of the Authority determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet NSPIRE, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 C.F.R. 983.205 (b); FR Notice 1/18/17]

The PHA may enter into a HAP contract with an owner for an initial term of no less than one year and no more than 20 years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than 20 years. In the case of PHA-owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 C.F.R. 983.59(b)(2)]. Final rule provides that the PHA and owner may execute one or more extensions at any time before expiration of the HAP contract, but at no time may the total remaining term of the HAP contract, with extensions, exceed 40 years. Extension must be appropriate to continue providing affordable housing for low-income families or to expand housing opportunities.

Authority Policy

The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

At the time of the initial HAP contract term or any time before expiration of the HAP contract, the PHA may extend the term of the contract for an additional term of up to 20 years if the PHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed 20 years. A PHA may provide for multiple extensions; however, in no circumstances may such extensions exceed 20 years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than 24 months prior to the expiration of the previous extension contract the PHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term.

Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. In the case of PHA-owned units, any extension of the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 C.F.R. 983.59(b)(2)].

Authority Policy

When determining whether or not to extend an expiring PBV contract, the Authority will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;
- The owner's record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

Termination by PHA [24 C.F.R. 983.205(c); FR Notice 1/18/17]

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.

In times of insufficient funding, HUD requires that PHAs first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts.

If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, 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 C.F.R. 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, families living in the contract units must be offered tenant-based assistance.

At their discretion the Authority may specify in the HAP contract that the maximum rent on a unit will not be less than the initial rent.

Statutory Notice Requirements: Contract Termination or Expiration [24 C.F.R. 983.206; FR Notice 1/18/17]

Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify the PHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

Upon termination or expiration of the contract, a family living at the property is entitled to receive a

tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The PHA must provide the family with a voucher and the family must also be given the option by the PHA and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (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 Violations [24 C.F.R. 983.208(b)]

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with NSPIRE. If the PHA determines that a contract does not comply with NSPIRE, 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.

Authority Policy

The Authority will abate and remove a unit from a PBV HAP contract or 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. Units that are removed from the contract are eligible to be re-added based on the appropriation of the Authority's funding at the time of the request.

17-V.C. Amendments to the HAP Contract

Substitution of Contract Units [24 C.F.R. 983.207(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 project for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [FR Notice 1/18/17]

The PHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 C.F.R. 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, the PHA must submit to the local field office information outlined in FR Notice 1/18/17. The PHA must also detail in the administrative plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

Authority Policy

Amendments to the HAP contract to substitute a contracted unit with a different unit with the same number of bedrooms in the same project as well as amendments to add additional PBV contract units in projects that already have a HAP contract will subject all units within the HAP to a redetermination of rent reasonableness pursuant to 24 CFR 983.303(b)(3).

17-V.D. HAP Contract Year, Anniversary and Expiration Dates

[24 C.F.R. 983.207(b) and 983.302(e)]

The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

17-V.E. Owner Responsibilities Under the HAP

[24 C.F.R. 983.210]

When the owner executes the HAP contract s/he certifies that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with 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 contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (does not apply to

family's membership in a cooperative); and

- Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

17-V.F. Additional HAP Requirements

Housing Quality and Design Requirements [24 C.F.R. 983.101(e) and 983.208(a)]

The owner is required to maintain and operate the contract units and premises in accordance with NSPIRE, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with NSPIRE.

Authority Policy

The Authority will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The Authority 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 C.F.R. 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).

Authority Policy

The Authority may pay vacancy payments up to two months' contract rent while the unit is vacant. These amounts may be pro-rated.

The owner must certify that they did not cause the vacancy by violating the lease, the Contract, or any applicable law. Also, the Owner must have notified the Authority of the vacancy or prospective vacancy and the reasons for the vacancy within 15 calendar days upon learning of the vacancy or prospective vacancy or no vacancy payment will be approved.

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.

If the Authority determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the Authority will notify the landlord of the amount of housing assistance payment that the owner must repay. The Authority will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B. and/or the Authority may withhold the amount owed.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

17-VI.A. Overview

Many of the provisions of the tenant-based voucher regulations [24 C.F.R. 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 C.F.R. 983.251 (a) and (b)]

The PHA may select families for the PBV program from those who are participants in the PHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 C.F.R. 982.201(a) and 24 C.F.R. 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 C.F.R. 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 C.F.R. 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

Authority Policy

The Authority will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.

In-Place Families [24 C.F.R. 983.251(b)]

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the PHA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the PHA's waiting list. Once the family's continued eligibility is determined (the PHA may deny assistance to an in-place family for the grounds specified in 24 C.F.R. 982.552 and 982.553), the family must be given an absolute selection preference and the PHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

17-VI.C. Organization of the Waiting List

[24 C.F.R. 983.251(c)]

Authority Policy

See Chapter 4 for a full discussion of the organization of waiting lists.

17-VI.D. Selection from the Waiting List

[24 C.F.R. 983.251(c)]

Applicants who will occupy units with PBV assistance must be selected in accordance with Chapter 4. The PHA may establish selection criteria or preferences for occupancy of particular PBV units. The PHA may place families referred by the PBV owner on its PBV waiting list(s).

Income Targeting [24 C.F.R. 983.251(c)(6)]

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely low-income families. The income targeting requirement applies to the total of admissions to both programs.

Units with Accessibility Features [24 C.F.R. 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 C.F.R. 983.251(d), FR Notice 11/24/08]

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The PHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B above.

The PHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that preference is consistent with the PHA plan. The PHA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has projects with "excepted units" for elderly families or supportive services, the PHA must give preference to such families when referring families to these units [24 C.F.R. 983.261(b); FR Notice 1/18/17].

Authority Policy

The Authority will provide a selection preference in accordance with the preference policies established in Chapter 4.

17-VI.E. Offer of PBV Assistance

Refusal of Offer [24 C.F.R. 983.251(e)(3)]

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refuse to list the applicant on the waiting list for tenant-based voucher assistance;
- Deny any admission preference for which the applicant qualifies;
- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

Disapproval by Landlord [24 C.F.R. 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 C.F.R. 983.252]

Family Briefing

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

Persons with Disabilities

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 C.F.R. 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

Persons with Limited English Proficiency

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

17-VI.F. Owner Selection of Tenants

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease.

Authority Policy

An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 C.F.R. 983.253(a)(2) and (a)(3)]. A copy of the

sent to the tenant must be provided to the Authority within 15 calendar days of the denial. Where the Authority has not received a RTA confirming the approval or a copy of the denial, the Authority may refuse additional referral requests.

Leasing [24 C.F.R. 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 Authority from the Authority's waiting list(s). Except for families converted as part of the RAD program and as provided in the Authority policy below, the contract unit leased to the family must be the appropriate size unit for the size of the family, based on the Authority's subsidy standards. Families converted as part of the RAD program and Authority policy below must occupy the closest and most appropriate size unit for the size of the family, based on the Authority's subsidy standards.

Authority Policy

Families that converted as part of the RAD program, or similar program prior to January 1, 2023, must occupy the closest and most appropriate size unit for the size of the family, based on the Authority's subsidy standards. "Similar programs" are defined as those programs wherein a building was rehabilitated and the same residents residing in the building prior to, and during rehabilitation, returned to the same building post rehabilitation. In these instances, tenants have a right to return and, due to that right, an appropriately sized unit for the size of the family may not be available. Under these circumstances, the developer/owner will ensure that the unit occupied is the closest and most appropriate size unit for the size of the family, based on the Authority's subsidy standards. The Authority retains full discretion to deny any future referral requests to a developer/owner after the initial lease up until a household(s) is/are right sized in accordance with HUD regulations and this policy.

Filling Vacancies [24 C.F.R. 983.254(a)]

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

Authority Policy

The owner must notify the Authority in writing (mail, fax, or e-mail) within 15 calendar days of learning about any vacancy or expected vacancy.

The Authority will make every reasonable effort to refer families to the owner within 30 calendar days of receiving such notice from the owner.

Reduction in HAP Contract Units Due to Vacancies [24 C.F.R. 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.

Authority Policy

If any contract units have been vacant for 120 days, the Authority will give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. The Authority will provide the notice to the owner within 15 calendar days of the 120th day of the vacancy. The amendment to the HAP contract will be effective the 1st day of the month following the date of the Authority's notice.

17-VI.G. TENANT SCREENING

[24 C.F.R. 983.255]

PHA Responsibility

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

The PHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the time-limited, written request or with the time-limited written consent of the individual providing the documentation [24 C.F.R. 5.2007(c)].

Authority Policy

The Authority 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 has been selected from the waiting list, determined eligible by the PHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

17-VII.B. Lease

[24 C.F.R. 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 C.F.R. 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.

Authority Policy

The Authority will not review the owner's lease for compliance with state or local law.

Lease Requirements [24 C.F.R. 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.

Authority RAD Policy

For units in RAD Placement Projects that converted to RAD in 2015 and 2016 occupied by a converted RAD family will require the following:

- **Rent Due Date Provision.** The lease must have a provision that does not penalize the family for payment rent by the 10th calendar day of every month.
- **Late Rent Fee.** The lease must have a provision that does not charge more than $25 as a late fee that shall not be accessed until the 11th calendar day of the month.
- **Security Deposits.** The lease must not require a security deposit above and beyond what has already been charged by the Authority.
- **Lease-Renewal.** The lease must have a provision that requires the owner to renew the lease unless cause-exists.

For all Project-Based Voucher units, the Authority may require the following:

- **Smoking Policy.** Leases must have a non-smoking lease provision that complies with the City of San Francisco's Department of Public Health. Currently, smoking is not allowed within 10 feet of any building.

Tenancy Addendum [24 C.F.R. 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

Initial Term and Lease Renewal [24 C.F.R. 983.256(f)]

The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause;
- The tenant terminates the lease;
- The owner and tenant agree to terminate the lease;
- The PHA terminates the HAP contract;
- The PHA terminates assistance for the family.

Changes in the Lease [24 C.F.R. 983.256(e)]

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if

approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

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 C.F.R. 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non- residential purpose.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 C.F.R. 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

Owner Termination of Tenancy [24 CFR 983.257]

Owners may not evict tenants on the basis, or as a direct result of, the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, if the applicant otherwise qualifies for assistance or admission. For more information on the VAWA requirements for the termination of protected tenants see section 12-I.E. of this plan".

Continuation of Housing Assistance Payments [24 CFR 982.258]

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 C.F.R. 983.211.

Authority 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 Authority of the change and request an interim reexamination before the expiration of the 180-day period.

If the Participant desires to remain in the same unit without assistance, and the Landlord/Owner approves this request by the Participant, the unit may be replaced with an amendment to the HAP agreement to provide an opportunity to another family in need of housing.

Security Deposits [24 C.F.R. 983.259]

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.

Authority Policy

The Authority will allow the owner to collect a security deposit amount the owner determines is appropriate.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

17-VII.C. Moves

Family occupancy of wrong-size or accessible unit [24 C.F.R. 983.260]

The PHA subsidy standards determine the appropriate unit size for the family size and composition. If the PHA determines that a family is occupying a wrong size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

Authority Policy

The Authority will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 15 calendar days of the Authority's determination. The Authority will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

1. PBV assistance in the same building or project;
2. PBV assistance within the property management portfolio;
3. PBV assistance within the greater Housing Authority's portfolio;
4. Tenant-based voucher assistance, if available and upon Authority discretion

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any

extension granted by the PHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the expiration of the term of the family's voucher, the PHA must remove the unit from the HAP contract.

If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

Authority Policy

When the Authority offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 calendar 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 calendar 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.

Authority RAD Policy

See Chapter 18.

Family Right to Move [24 C.F.R. 983.261]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA. 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 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 continued tenant-based assistance.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

The Authority may not terminate assistance to a family receiving project based assistance, regardless of whether the family has lived in the unit for less than 12 months, if the family, with or without prior notification to the Authority, moves out of a unit in violation of the lease, if such move occurs 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 he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit, or if any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar

day period preceding the family's request to move.

Authority Policy

If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance except for VAWA incidents.

For families exercising their right to move, please refer back to [Choice Mobility Chapter].

17-VII.D. Exceptions to the Occupancy Cap

[24 C.F.R. 983.262]

The PHA may not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless:

- The units are exclusively for elderly families;
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project;
- The project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates.

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the PHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA shall cease paying HAP on behalf of the family.

Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a "qualifying family" because the family is no longer an elderly family due to a change in family composition, the PHA has the discretion to allow the family to remain in the excepted unit. If the PHA does not exercise this discretion, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.

Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. A PHA or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the PHA.

The PHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly family member or long-term or permanent hospitalization or nursing care), the elderly family member no longer resides in the unit. In this

case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, in order to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

Authority Policy

The Authority will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members' control.

In all other cases, the Authority will provide written notice to the family and owner within 10 business days of making the determination. The family will be given 30 days from the date of the notice to move out of the PBV unit. If the family does not move out within this 30-day time frame, the Authority will terminate the housing assistance payments at the expiration of this 30-day period.

The Authority may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

PART VIII: DETERMINING RENT TO OWNER

17-VIII.A. Overview

***Initial Rent* [24 CFR 983.301(a)]**

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. For rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, but the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

***Redetermination of Rent* [24 CFR 983.302]**

During the term of the HAP contract, the PHA must redetermine the rent to owner: (i) upon the owner's request in accordance with program requirements, (ii) when there is a ten percent decrease in the published FMR, or (iii) at the time of the automatic adjustment by an operating cost adjustment factor (OCAF) if the HAP contract provides for rent adjustments using OCAF.

17-VIII.B. Amount of Rent to Owner

[24 C.F.R. 983.301(b)]

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 unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

Rent to owner for certain tax credit units [24 C.F.R. 983.301(c)]

For certain tax credit units, the rent limits are determined differently than for other PBV units. Different limits apply to contract units that meet all of the following criteria:

- The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;
- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same project, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds 110 percent of the fair market rent or any approved exception payment standard;

For contract units that meet all of the criteria above, the rent to owner must not exceed the lowest of:

- The tax credit rent minus any utility allowance;

- The reasonable rent; or
- The rent requested by the owner.

Definitions

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which (i) at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or (ii) where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

Tax credit rent is the rent charged for comparable units of the same bedroom size in the project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Reasonable Rent [24 C.F.R. 983.301(e) and 983.302(c)(2)]

The PHA must determine reasonable rent in accordance with 24 C.F.R. 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- To correct errors in calculations in accordance with HUD requirements.
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 C.F.R. 983.153(b).
- 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.

Authority Policy

The Authority will elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed above [24 C.F.R. 983.302(c)(2)]. If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, the Authority will use the higher initial rent to owner amount.

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 C.F.R. 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 redetermining 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 standard 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.

Authority Policy

Upon written request by the owner, the Authority 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 Authority 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 Authority 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 Authority determines it is necessary due to Authority budgetary constraints.

Use of Small Area FMRs (SAFMRs) [24 C.F.R. 888.113(h)]

While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant- based program under SAFMRs (either by HUD-designation or because the PHA requested HUD approval to use 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 dates of both the SAFMR designation and the PHA administrative plan policy, 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.

Authority Policy

The Authority will not apply SAFMRs to the Authority's PBV program.

Rent Increase [24 CFR 983.302(b)]

An owner may receive an increase in the rent to owner during the term of a HAP contract. Any such increase will go into effect at the annual anniversary of the HAP contract.

A rent increase may occur through automatic adjustment by an operating cost adjustment factor (OCAF) or as the result of an owner request.

Automatic OCAF Adjustment

By agreement of the parties, the HAP contract may provide for rent adjustments using an operating

cost adjustment factor (OCAF) established and published annually by HUD. If the contract uses OCAF, the PHA recalculates the rent automatically each year. The contract may require additional increase if allowed by the contract and approved by the PHA under the rent reasonableness/comparability rules.

Increase by owner request

If the HAP contract does not provide for automatic adjustment by an OCAF, then an owner who wishes to receive an increase in the rent to owner must request such increase at the annual anniversary of the HAP contract by written notice to the PHA. (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 units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

Authority Policy

An owner's request for a rent increase must be submitted to the Authority, on the standard Authority form, 120 days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing.

An owner's request for a rent increase must include a proposed or actual notice to the tenant of the proposed increase.

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.

Authority Policy

If 15% of the contracted units are otherwise eligible to be removed from the HAP contract under CFR at the time of the request for rent increase, the contract will be considered in noncompliance with NSPIRE and not eligible for contract rent increase. The Authority reserves the right to review extenuating circumstances, which may result in the approval of a rent increase provided all requested documentation is submitted.

Rent Decrease [24 CFR 983.302(c)]

If the HAP contract provides for rent adjustments by an OCAF and there is a decrease in the fair market rent, tax credit rent, or reasonable rent that requires a decrease to the rent to owner, the rent to owner must be decreased. If the HAP contract does not provide for adjustment by an OCAF and there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

Notice of Rent Change [24 CFR 983.302 (d)]

The rent to owner is redetermined by written notice by the PHA to the owner specifying the amount of the redetermined 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.

Authority Policy

The Authority will provide the owner with at least 30 calendar days written notice of any change in the amount of rent to owner.

PHA-Owned Units [24 C.F.R. 983.301(g)]

For PHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. The PHA must use the rent to owner established by the independent entity.

17-VIII.C. Reasonable Rent

[24 CFR 983.301(e); 24 CFR 983.303]

At the time the initial rent is established and at all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

When Rent Reasonable Determinations Are Required

The PHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a 10 percent or greater decrease in the published FMR in effect 60 days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;
- 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 project; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

Comparability Analysis

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project- based

assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

PHA-Owned Units

For PHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

Owner Certification of Reasonable Rent

By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, the 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 (see Section 17-II.D).

Other Subsidy [24 C.F.R. 983.304]

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

Rent Control [24 C.F.R. 983.305]

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law (see section 8- III.B.).

PART IX: PAYMENTS TO OWNER

17-IX.A. Housing Assistance Payments

[*24 C.F.R. 983.351*]

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with NSPIRE and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

17-IX.B. Vacancy Payments

[24 C.F.R. 983.352]

Payment at Move-Out Month

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

Authority Policy

If the Authority determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, the Authority will notify the landlord of the amount of housing assistance payment that the owner must repay. The Authority will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B "Repayment Policy".

Vacancy Payment at PHA Discretion

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may pay vacancy payments up to two months contract rent while the unit is vacant. These amounts may be pro-rated. The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was

vacant during the period for which payment is claimed;

- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

Authority Policy

If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified the Authority 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 15 calendar 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 Authority may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the Authority within 15 calendar days of the Authority's request, no vacancy payments will be made.

17-IX.C. Tenant Rent to Owner

[24 C.F.R. 983.353]

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

Tenant Payment to Owner

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent as determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers payment for all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

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.

Limit of PHA Responsibility

The PHA is responsible only for making the housing assistance payment to the owner on behalf of a family in accordance with the HAP contract. The PHA is not responsible for paying the tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part

of the tenant rent or other claim by the owner.

Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities ("utility reimbursement"), 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.

Authority Policy

The Authority will make utility reimbursements to the family.

17-IX.D. Other Fees and Charges

[24 C.F.R. 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.

CHAPTER 18: RENTAL ASSISTANCE DEMONSTRATION

The Authority is a participant in the Rental Assistance Demonstration (RAD) Program utilizing Project Based Vouchers. This chapter includes policies and procedures to enable the implementation of RAD PBV.

There are four parts to this chapter.

Part I: PBV Project Selection. This section covers the cap on PBV vouchers, grievance rights, contract terms, and selection from the waiting list.

Part II: Applicant Referrals to Rad Properties. This section covers referrals, and owner selection.

Part III: Owner Selection of Tenants. This section covers leasing and vacancies.

Part IV: Appeal And Grievance Procedure for RAD Developments. This section covers grievances, appeals, and language access.

PART I: PBV PROJECT SELECTION

Maximum Amount of PBV Assistance

Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which is set at twenty (20%) percent of the amount of budget authority allocated to a PHA under the Housing Choice Voucher program. To implement this provision, HUD is waiving section 8(o) (13) (B) of the 1937 Act as well as 24 C.F.R. § 983.6.

Cap on Number of PBV Units in each Project

Fifty percent (50%) of the units in each project may receive PBV assistance. An assisted household cannot be involuntarily displaced as a result of this provision.

An owner may still project-base one hundred (100%) percent of the units provided at least fifty (50%) percent of the units at the project qualify for the exceptions for elderly, disabled, or families receiving supportive services, or are within single-family properties.

Families living in units subject to a proposed RAD conversion must be given the option to receive supportive services. If such services are declined by the household, the unit shall remain under the HAP contract, the household shall not be terminated from the PBV program, and the decision to decline an offer to receive supportive services shall not represent a ground for lease termination. Once the initial household residing in the excepted unit under RAD vacates such unit, all PBV program requirements related to the required receipt of supportive services shall apply in accordance with 24 C.F.R. §§ 983.56, 983.257(c), 983.261(a) and (d).

To implement these provisions, HUD is waiving section 8(o) (13) (D) of the Act, as well as related provisions of 24 C.F.R. §§ 983.56, 983.257(c), 983.261(a) and (d) for initial occupancy in the RAD converted project. HUD waivers included extending RAD tenant projections in PIH Notice 2012-32, Section 1.6(C)((1) through Section 1.6(C)((8) to all non-RAD project-based voucher units once RAD Use Agreement is recorded.

On January 6, 2014, the US Department of Housing and Urban Development ("HUD") provided approval of applications that were submitted by the Housing Authority of the City and County of San Francisco (the "Authority") on September 27, 2013, under the Rental Assistance Demonstration ("RAD") Program for 4,575 housing units in 41 Authority projects.

For specific information on the developments converting/converted to RAD, please see the Authority's Annual Plan for Fiscal Year 2019.

Capital Fund

Current and future Capital Fund Budget grants will be reduced as a result of these projects converting to RAD, the revisions to Authority's Annual and Five-Year Plans are included in Chapters 7, 8, and 9. These revisions include:

- An estimate of the amount of the current Capital Fund grant that is associated with the proposed project(s) and the impact on the Authority's current Five- Year PHA Plan and Five-Year Capital Fund Action Plan.

PBV Contract Terms

Length of Contract

Covered projects shall have an initial HAP term of at least 15 years and up to 20 years upon request of the PHA and with approval by the agency administering the vouchers. To implement this provision, HUD is waiving section 8(o) (13) (F) of the Act (which established a maximum term of 15 years) as well as 24 C.F.R. § 983.205(a) (which governs contract term).

Mandatory Contract Renewal

By statue, upon contact expiration, the agency administering the vouchers shall offer, and the PHA shall accept, renewal of the contract subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently 24 C.F.R. § 983.205(b), governing the PHA discretion to renew the Contract for term of up to fifteen (15) years, will not apply.

In the event that the HAP Contract is removed due to breach, non-compliance or insufficiency of Appropriations, for all units previously covered under the HAP Contract, new tenants must have incomes at or below eighty (80%) percent of the area median income at the time of admission and rents may not exceed 30% of 80% of median income for an appropriate size unit for the remainder of the term of the RAD Use Agreement.

Initial Contract Rents

Initial PBV contract rents are subject to the statutory and regulatory PBV requirements governing contract rents (see 24 C.F.R. § 983.301). To this effect, initial contract rents cannot exceed the lower of (a) the reasonable rent (as defined under 24 C.F.R. § 983.303; (b) an amount determined by the PHA, not to exceed one hundred and ten (110%) percent of the applicable FMR (or applicable exception payment standard), minus any utility allowance; or (c) the rent requested by the owner.

PHAs may adjust subsidy (and contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD. This use, which HUD refers to as "bundled" rents, is permissible when a PHA submits applications for two or more projects. There is no limit to the number of projects that a PHA may bundle.

Adjusting Contract Rents

Contract rents will be adjusted annually by HUD's Operating Cost Adjustment Factor ("OCAF") at each anniversary of the HAP Contract, subject to the availability of appropriations for each year of the contract term. As such, section 8(o) (13) (I) of the Act and 24 C.F.R. § 983.301 and 983.302, concerning rent determinations, shall not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in private market, as determined by the Contract Administrator in accordance with 24 C.F.R. § 983.303.

However, the rent to owner shall not be reduced below the initial rent to owner for dwelling units under the initial HAP Contract.

Resident Rights and Participants

No Re-Screening of Tenant Upon Conversion

Rescreening current households is prohibited. This includes income eligibility or income targeting provisions. Consequently, current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 C.F.R. § 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family. The Authority will make their best effort to appropriately size households throughout the conversion.

Right to Return

Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept a PHA or Owner's offer to permanently relocate to another assisted unit and thereby waive their right to return to the development after rehabilitation or construction is completed.

Renewal of Lease

The Landlord must renew all leases upon lease expiration, unless good cause exists. Consequently, 24 C.F.R. § 983.257(b) (3) will not apply. This provision must be incorporated by the PBV owner into the tenant lease or tenancy addendum, as appropriate.

Phase-in of Tenant Rent Increases

If a tenant's monthly rent increases by more than the greater of ten (10%) percent or twenty-five ($25) dollars, purely as a result of conversion, the rent increase will be phased in over three (3) years. To implement this provision, HUD is waiving section 3(a)(1) of the Act, as well as 24 C.F.R. § 983.3 (definition of "total tenant payment" (TTP)) only to the extent necessary to allow for the phase-in of tenant rent increases.

Three-Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – thirty-three (33%) percent of difference between most recently paid TTP and the standard TTP.
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) - sixty-six (66%) percent of difference between most recently paid TTP and the standard TTP.
- Year 3: Year 3 AR and all subsequent recertifications – Full standard TTP.

Agreement Waiver

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP),

including regulations under 24 C.F.R. Part 983 Subpart D, are waived.

Voluntary Compliance Agreement

The Authority is currently under a Voluntary Compliance Agreement (VCA). Compliance with the VCA will not be negatively impacted by RAD conversion activities. The Voluntary Compliance Agreement requirements and obligations transfer to the new owner upon conversion.

Public Housing FSS and ROSS Participants

Current PH FSS participants will continue to be eligible for FSS once their housing is converted under RAD, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the FY 2013 PH FSS NOFA, to serve those FSS participants who live in units converted by RAD and who will as a result be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program.

Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 C.F.R. 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

Current ROSS-SC grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS-SC grants.

Resident Participation and Funding

Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.

Resident's Procedural Rights

In addition to the regulations at 24 C.F.R. § 983.310, related to owner termination of tenancy and eviction, the termination procedure for RAD conversions to PBV will require that the Landlord provide adequate written notice of termination of the lease which shall not be less than:

- A reasonable period of time, but not to exceed thirty (30) days:
    - If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or
    - In the event of any drug-related or violent criminal activity or any felony conviction;
- Fourteen (14) days in the case of nonpayment of rent; and
- Thirty (30) days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.
- In addition to reasons that require an opportunity for an informal hearing given in 24 C.F.R. § 982.555(a)(1)(i)-(vi), 31 an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a PHA (as owner) action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights,

obligations, welfare, or status.

- For any hearing required under 24 C.F.R. § 982.555(a)(1)(i)-(vi), the contract administrator will perform the hearing, as is the current standard in the program.
- For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.

- An informal hearing will not be required for class grievances or to disputes between residents not involving the PHA (as owner) or contract administrator. This hearing requirement shall not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA (as owner) or contract administrator. The PHA (as owner) give residents notice of their ability to request an informal hearing as outlined in 24 C.F.R. § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 C.F.R. § 982.555(a)(1)(i)-(vi).
- The PHA (as owner) provide opportunity for an informal hearing before an eviction.

Choice Mobility Vouchers

One of the key features of the PBV program is the mobility component, which provides that if the family has elected to terminate the assisted lease at any time after the first year of occupancy in accordance with program requirements, the PHA must offer the family the opportunity for continued tenant based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance, if available.

Authority Policy

The Authority will not apply a turnover cap of available Housing Choice Vouchers for RAD PBV families who wish to exercise mobility. The Authority will maintain a combined waiting list(s) for all PBV and RAD PBV families wishing to exercise mobility after one year of tenancy.

18-I.A. Selection from the Waiting List(s)

[24 C.F.R. 983.251]

Applicants who will occupy units with RAD assistance must be selected from the Authority's site-based waiting list(s). The Authority may establish selection criteria or preferences for occupancy of particular RAD units.

Authority Policy

If a RAD site-based waiting list(s) is exhausted and the Authority is unable to provide new referrals, the Authority may add applicants to the exhausted site-based waitlist using one of the following methods:

- Select applicants from the Authority's HCV, Project Based Voucher or Public Housing waiting list.
- Accept RAD Management referrals from pre-applications collected at the property.

PART II: APPLICANT REFERRALS TO RAD PROPERTIES

18-II.A. Overview

The Authority's Client Placement Department must refer eligible applicants to RAD properties in accordance with a procedure that is consistent with civil rights and nondiscrimination laws. The Authority must also refer applicants to RAD properties in the appropriate waitlist order. The Authority will continue to refer applicants until a RAD vacancy is filled. Multiple applicants may be referred for each available RAD unit.

Both RAD and PBV units at a designated RAD site are eligible for referrals from a RAD waitlist.

This section describes the Authority's policies with regard to the number of unit offers that will be made to applicants selected from the waiting list(s). This section also describes the Authority's policies for offering units with accessibility features.

18-II.B. Unit Offers/ Offer Refusal Without Good Cause

Applicants will be referred to a RAD property upon receipt of an Applicant Referral Request Form submitted by the owner, detailing the unit size and type, income requirements and unit accessibility features. Applicants are referred based on waitlist position, compliance with the occupancy guidelines and income restrictions for the vacancy.

All applicants are required to complete an Accessible Unit Request Form to identify or decline the need for a unit with accessibility features. Applicants who have indicated the need for accessibility features are prioritized as referrals for vacancies that meet the applicant's accessibility needs.

Authority Policy

Unit offers will be made in writing at the PBV (Project Based Voucher) Family Briefing. Unit offers made by telephone due to extenuating circumstances will be confirmed by letter.

Applicants must accept or refuse a unit offer within ten (10) calendar days of the date of the offer.

The Authority will make a maximum of three (3) unit offers. The initial unit offer may be refused without good cause. A second and third unit refusal will require good cause as defined in 18-II.C. below. A Notice of Proposed RAD Waitlist Withdrawal will be sent to the applicant advising of a final unit offer remaining and the risk of withdrawal.

The third and final unit offer must be accepted in order to prevent adverse action. When an applicant refuses three (3) unit offers without good cause, the Authority will remove the applicant from the refused site-based waitlists as well as the remaining RAD site based waitlist(s) on which the applicant is active in accordance with the Notice of Proposed RAD Waitlist Withdrawal. No adverse actions will impact non-RAD waitlist statuses/applications as a result of RAD unit refusals.

The Authority will send a notice to the household of such removal. The notice will inform the family of their right to request an informal review and the process for doing so (see Chapter 14). The applicant may reapply for assistance if the waiting list(s) is open. If the waiting list(s) is not open, the applicant must wait to reapply until the Authority opens the waiting list(s).

18-II.C. Refusal of Unit Offer for Good Cause

Authority Policy

Applicant's households may refuse to accept a unit offer for "good cause." Good cause includes situations in which an applicant is willing to move but is unable to do so at the time of selection from the waitlist, or the applicant demonstrates that acceptance of the offer would cause undue hardship not related to considerations of the applicant's race, color, national origin, etc.

Good Cause refusals must be submitted in writing and must be accompanied by supporting documentation to verify the qualifying "good cause" reason. In the case of a unit refusal for good cause the applicant will not be removed from the waiting list(s) The applicant will remain at the top of the waiting list(s) until the family receives an offer for which they do not have good cause to refuse.

Examples of good cause for refusal of a referral include, but are not limited to, the following:

- Inaccessibility to source of employment, education, or job training, children's day care, or educational program for children with disabilities, so that accepting the offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The household demonstrates to the Authority's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, or risk assessments related to witness protection from a law enforcement agency. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.
- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a 30- day notice to move.
- The unit has lead-based paint and the family includes children under the age of six.

18-II.D. RAD Emergency Referrals for RAD Program Participants

Authority Policy

Households requiring an emergency transfer will be given a preference on a RAD PBV waiting list(s). This preference is specific and limited to Project-Based Voucher Assistance at a RAD property. To qualify for this preference, a family must have an approved (certified) Emergency Referral in accordance with RAD Emergency Referral Procedure.

If the RAD Property Manager determines that the RAD participant household's situation meets one or more of the definitions of emergency defined below, is supported by any required documentation as defined below, and the RAD participant household's emergency cannot be resolved by an internal transfer or temporary relocation, the RAD Property Manager will complete a RAD Emergency Referral Request Form for approval by the Mayor's Office of Housing and Community Development (MOHCD). The certified RAD Emergency Referral is then routed to the Authority for placement.

Placement/referrals are made based on the sites selected by the resident on the RAD Site Based Waitlist Selection Form in the order of certified MOHCD approval with consideration of the household's needs/all factors warranting the referral. Households with a debt owed to the Authority will not be required to pay as a requirement to move to another RAD unit/property.

A qualifying emergency situation includes the following:

- *Personal Safety Emergency:*
    - A RAD participant and/or household member is a target of any physical harassment and/or extreme or repeated verbal harassment, intimidation, or coercion, which places the household member(s) in imminent danger;
    - A RAD participant and/or household member is a participant in a witness protection program;
    - A RAD participant and/or household member is or has been a victim of domestic violence, dating violence, sexual assault, stalking, human trafficking, or elder/dependent adult abuse and reasonably believes there is a threat of imminent danger if not relocated.
- *Uninhabitable Conditions:*
    - The RAD participant's unit, building, or RAD property pose an immediate, verifiable threat to the life, health, or safety of the tenant or family members and cannot be remedied by internal transfer or temporary relocation of the tenant. Examples include:
        - Destruction by fire or other disaster including, but not limited to, a flood, earthquake, or other natural or man-made disaster; or
        - The existence of a major maintenance or defect problem that constitutes a serious danger to health and safety.

- *Reasonable Accommodation:*
    - A RAD participant has a verifiable medical condition that requires an accommodation that cannot be reasonably provided in their existing development.

These policies do not apply to units with a homeless target population, including all formerly Moderate Rehabilitation Units converted to RAD (RAD Component 2). Please see Section 18-II.E. for the Emergency Referral Process of formerly Moderate Rehabilitation Units.

Authority Policy

The RAD Referral Process does not apply to Moderate Rehabilitation units.
The Moderate Rehabilitation program follows the Choice Mobility Model.

18-II.E. RAD Emergency Referrals for Participants of the Moderate Rehabilitation Program

Authority Policy

See Chapter 4 for a discussion on Reasonable Accommodation (RA) Project Based Voucher (PBV) transfers.

PART III: OWNER SELECTION OF TENANTS

18-III.A. Overview

The Authority and RAD property owners developed a written tenant selection guidelines that are consistent with public financing regulations. These procedures have the purpose of providing housing opportunities for very low-income families.

18-III.B. Leasing

[24 C.F.R. 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 Authority from the Authority's RAD property waiting list(s).

18-III.C. Filling Vacancies

[24 C.F.R. 983.254(a)]

The owner must promptly notify the Authority of any vacancy or expected vacancy in a RAD property. After receiving such notice, the Authority must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The Authority and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

Authority Policy

The Authority and the RAD owners has developed and made available a referral procedure for filling available units, in compliance with this chapter.

PART IV: APPEAL AND GRIEVANCE PROCEDURE FOR RAD DEVELOPMENTS (Post Conversion)

18-IV.A. Overview

The RAD developer strives to provide excellent services to tenants and applicants of the housing we own and manage. However, we realize that on occasion, disagreements between tenants or applicants and staff will occur. We have adopted the Appeal and Grievance Procedure described herein to ensure that tenants and applicants have a fair opportunity to present and resolve any disagreements or disputes they have in the area of property management. (Tenant Services grievances are covered in a separate procedure available from your property's Tenant Services office.)

Experience shows that most disagreements can be resolved quickly and informally through direct and honest communication. Therefore, we encourage you to bring your concerns directly to the pertinent employee for resolution. You may also request a hearing if you have a complaint about another tenant concerning your or others' health and safety or maintenance and management of the project.

If you do not believe that the employee has adequately addressed your concern, we ask that you bring your concern to the Property Manager, whose office is on the ground floor of the property you live in. If you do not believe that the Property Manager has adequately addressed your concern, or if your concern is with the Property Manager and you feel you cannot address this with them directly, please bring the issue to the Property Supervisor. The Property Supervisor manages the staff and facilities of several buildings.

Submit your request to the office of the Property Supervisor.

If the Property Supervisor does not resolve your concern satisfactorily, you may follow the procedure described below.

The RAD developer's policy is that all tenants' grievances be given complete and objective consideration. On rare occasions, this may require referral of a problem to higher levels of authority. This procedure has been adopted to assure that opportunity for full "due process" and a fair opportunity to present and resolve any disagreements or disputes that you have with management is given to all tenants and applicants.

This procedure applies to both applicants and tenants of their RAD Developer properties. All tenants are encouraged to use it without concern that it will reflect on their status as a tenant.

"Complainant" is defined as a tenant whose rights, duties, welfare, or status are or may be adversely affected by management's action or failure to act and who files a grievance with management with respect to such action or failure to act. Complainant is referred to in this procedure as "complainant," "you" or "tenant."

"Grievance" is defined as any dispute with respect to management action or failure to act in accordance with lease requirements, or any management action or failure to act involving the interpretation or application of management regulations, policies, or procedures which adversely affects the rights, duties, welfare, or status of the complainant.

18-IV.B. Right to a Grievance Hearing

If you believe you have a grievance, for example that management has acted so that your rights or status are adversely affected, or you believe that management has not complied with the terms of the residential lease it entered into with you, then you are entitled to a hearing in accordance with this grievance and appeal procedure.

You may also request a hearing if you have a complaint about another tenant concerning your or others' health and safety or maintenance and management of the project.

If you applied for a unit and were rejected, you also have the right to request a hearing. The grievance and appeal procedure does not apply if:

1. You have been given a notice to vacate because you or a member of your household engaged in:

    a. Criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises, other residents or management employees;

    b. Violent or drug-related criminal activity on or near the premises; or

    c. Criminal activity that resulted in felony conviction of a household member.

2. You do not have a right to an informal hearing for class grievances or for disputes between residents not involving management or the Authority.

Your tenancy will not terminate and management will not file an eviction complaint against you until the time to request a hearing expires and you did not request a hearing; or if you requested a hearing, a complaint will not be filed until the informal and formal hearing procedure have been completed. In the case of a proposed adverse action other than an eviction, the management shall not take the adverse action until the time for you to request a grievance hearing has expired, and (if you timely requested a hearing) the grievance hearing has been completed.

18-IV.C. Rent or Other Charges Owing

During the hearing process, you must continue to pay all rent and charges not in dispute as they become due.

If you fail to pay rent and charges not in dispute, the hearing officer may determine that you have waived your right to a formal hearing. If the hearing officer decides that you have waived your right to a hearing, you may resolve your grievance in court.

18-IV.D. Requesting a Hearing

Present your request for an informal hearing on time. You must personally make a request for an informal hearing either orally or in writing to the RAD Property Manager at your site's administrative office, so that together we may agree to a date and time to discuss your grievance informally. You must present your grievance within a reasonable time, not to exceed ten (10) working days after the grievance or dispute arose. Your request must include a simple statement of your grievance or dispute.

18-IV.E. The Informal Hearing

The goal of the informal hearing is to settle the problem without the need for a formal hearing or court proceedings. If you have a complaint and request a hearing, you will have an informal hearing with an individual who did not make or approve the decision or a subordinate of this person. Once requested, the informal hearing must be held between you and management within 15 calendar days after your request. Furthermore, management is obliged to give you its decision on the matter in writing within 15 calendar days of the hearing. If the decision is not in your favor or the problem is not settled, you are entitled to request a formal hearing. The written decision will also include the procedures you must follow if you want to appeal the decision in a formal hearing.

While you can present your grievance orally, it is better also to state your grievance in writing. The grievance may be simply stated, and it is best if you also state action or relief you seek.

We will prepare a written, dated, and signed summary of our discussion and answer to your grievance within 15 calendar days. We will mail or deliver one copy to you and keep one in your file. Our answer shall specify 1) the names of the hearing participants, including the tenant and management staff, 2) the date of the hearing, 3) the nature of the grievance, 4) the proposed disposition of the grievance and the specific reasons therefore, 5) your right to a formal hearing, 6) the procedure by which you may request a formal hearing if you are not satisfied with the proposed disposition, and 7) the date by which to file the request for the formal hearing.

18-IV.F. The Formal Hearing

If you are dissatisfied with management's decision at the informal hearing, you have a right to a formal hearing. An impartial person, (someone other than a person who made or approved the decision or a subordinate of this person will conduct the formal hearing. An impartial hearing officer will be selected from the rotating list of hearing officers established by the Authority after consultation with the resident organizations. An attorney who has represented any RAD developer or the Authority may not act as a hearing officer.

Present your request for a formal hearing on time. If you want a formal hearing, you may submit a written request to your property manager within 15 calendar days after receiving the decision from the informal hearing. If you miss this 15 calendar day deadline, the decision from the informal hearing will become final. This shall not, however, constitute a waiver of your right thereafter to contest the disposition of the grievance in an appropriate judicial proceeding.

As with the informal hearing, you must simply state your complaint or grievance, the reasons why you disagree with the decision resulting from the informal hearing and action or relief you seek.

Do not miss the hearing. The hearing will be held no more than 15 calendar days after management receives your request for a hearing. You will be given at least seven (7) calendar days' notice of the hearing date. You have the right to make one request for a rescheduled time, for good cause. If you or management's representative fails to appear without prior notification, the hearing officer can either proceed with the hearing without the absent party or reschedule the hearing for a later date.

18-IV.G. Procedures Governing the Hearing

The following procedures are intended to protect your right to a fair hearing and provide basic due process safeguards:

1. You can bring as much evidence to the hearing as you think you need. However, the hearing

officer will determine if it relates sufficiently to the hearing to be considered.

2. You can bring someone to represent you at the hearing or a witness or observer, but you must also be present.

3. You and management can have witnesses to support your respective positions, with the right to cross-examine each other's witnesses.

4. You will be given the opportunity a reasonable time before the hearing to examine and copy at your expense all documents, records, and regulations that are relevant to the hearing. Any documents not made available for review may not be relied upon by management at the hearing.

5. The hearing will be private.

6. Either party may request that the hearing be recorded at their own expense. Any party may purchase a copy.

7. At the hearing, you must present your side of the dispute and state what you want done. It will then be management's burden to justify its actions. If the hearing relates to an eviction or lease termination, management must also prove "good cause," as defined in the Program Regulations. Good cause includes, but is not limited to, nonpayment of rent, noncompliance with the terms of the lease, subletting, and remaining on the property after your tenancy is terminated.

8. Those present at the hearing must conduct themselves in an orderly fashion and follow the rules laid out by the hearing officer. Failure to do so is sufficient grounds for the hearing officer to terminate the hearing.

9. Until the hearing officer sends you a written decision, neither management nor the owner will file an eviction action against you in court.

Consideration of Circumstances

In determining whether to deny or terminate assistance or evict because of action or failure to act by members of the family:

(i) Management and the hearing officer must consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial, termination of assistance or eviction on other family members who were not involved in the action or failure.

(ii) Management or the hearing officer may impose, as a condition of continued assistance for other family members, a requirement that other family members who participated in or were culpable for the action or failure will not reside in the unit. Management or the hearing officer may determine that the other members of a participant family may continue receiving assistance.

(iii) In determining whether to deny admission, terminate assistance or to evict due to illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the management and hearing officer shall 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 management or hearing officer 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.

(iv) If the family includes a person with disabilities, decision concerning such action is subject to consideration of reasonable accommodation in accordance with 24 C.F.R., part 8.

(v) Nondiscrimination limitation and protection for victims of domestic violence, dating violence, sexual assault, or stalking. The management and owner's admission, termination and eviction actions must be consistent with fair housing and equal opportunity provisions of 24 C.F.R. § 5.105, and with the requirements of 24 C.F.R. part 5, subpart L, protection for victims of domestic violence, dating violence, sexual assault or stalking.

(vi) In the case of a proposed eviction, eviction must always be considered a last resort and alternatives to eviction must be considered. In non-payment of rent cases, a fair and reasonable payment plan must be offered. Considerations of health, safety and quiet enjoyment must be balanced with the consideration that residents may have no other housing options and that they may not have complete control over all household members and guests.

18-IV.H. Hearing Decision

The hearing officer must send a written decision to all parties within 15 calendar days of the request for the hearing. The decision will be based solely upon a preponderance of the evidence presented at the hearing and in conformance with applicable laws and/or regulations. In general, all evidence is admissible. Even though hearsay is generally admissible, hearsay evidence alone cannot be used as the sole basis for the decision.

The decision should follow a format of: Hearing information (date, parties present, etc.), Statement of reasons for the hearing, Summary of evidence, Finding of facts, Conclusions and Order.

Provided that the decision is consistent with the applicable laws and regulations, it will be binding on all the parties. If the decision is in your favor, management must promptly take all actions necessary to carry out the decision or refrain from any action prohibited by the decision.

If the decision is not in your favor, you must promptly comply with the decision, terminate your tenancy and move, if required, or take your complaint to court.

A copy of the decision with all names and identified references shall be provided to and maintained on file by the Authority and made available for inspection by another complainant, a hearing officer or the Authority.

18-IV.I. Unresolved Grievances or Additional Appeals

If the parties and hearing officer are unable to resolve the grievance or any party wishes to make an additional appeal, either party may direct their complaint to the local responsible agency for review and recommendation.

For housing matters relating to Section 8, you may contact the San Francisco Housing Authority, ATTN: Special Programs, 1815 Egbert Avenue, San Francisco, CA 94124.

For matters relating to discrimination based upon race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, familial status, marital status, disability or Acquired Immune Deficiency Syndrome, HIV status, height, or association with members of such classes, may contact the California Department of Fair Employment and Housing, (800) 884-1684 and/or the San Francisco Human Rights Commission (SFHRC), 25 Van Ness Avenue, San Francisco, CA 94102. You may also contact the SFHRC if you are an applicant with a criminal history and believe that your rights under the Fair Chance Ordinance, Article 49 of the SF Police Code have been violated or an applicant or tenant with a claim of discrimination based upon source of income.

Upon a written request from the local or state agency for interpretation, the Authority shall be the final authority for purposes of interpretation of these procedures.

18-IV.J. Right to go to Court

Participation in any of the procedures described above will not waive, or affect in any manner, any rights you or management may have to any judicial proceedings that may thereafter be brought on the matter.

18-IV.K. Notice of Eviction

The management's notice of eviction or notice to vacate must provide adequate written notice, which shall not be less than:

1. A reasonable period of time not to exceed 30 days, if the health or safety of other tenants, Authority employees or management employees, or persons residing in the immediate vicinity of the premises is threatened, or in the event of any drug-related or violent criminal activity or any felony conviction by a tenant or immediate household member;

2. 14 days in the case of nonpayment of rent; and

3. 30 days in any other case, except that if State or local law provides for a shorter period of time, such shorter period shall apply.

The management must provide the Authority with a copy of any owner eviction notice and the Authority shall also provide the tenant a notice of lease termination with time periods not less than listed above.

Any notice of eviction or notice to vacate must contain the following information:

1. The reasons for the eviction with enough specificity to permit the tenant to prepare a defense;

2. A statement of the right to request an informal and formal grievance hearing (including the deadline for requesting the hearing) or if the tenant is not entitled to a hearing the basis for excluding the tenant from the procedures;

3. A statement of the opportunity to examine prior to any hearing or trial any relevant documents, records, or regulations, including the tenant file, directly relating to the eviction or termination, if the management does not make the documents available to the tenant, management may not rely on the document at the hearing or at trial;

4. The rights of tenants pursuant to the requirements of 24 C.F.R. part 5, subpart L, protections for victims of domestic violence, dating violence, sexual assault, or stalking; and

5. The right to request a reasonable accommodation based upon your disability, in accordance with 24 C.F.R. part 8.

18-IV.L. Incorporated into Tenant Lease and Authority's Administrative Plan

This Appeal and Grievance Procedure is a required attachment to all tenant leases and is incorporated therein. The Procedure also must be incorporated into the Authority's Administrative Plan.

18-IV.M. Language Access

Grievance hearings will be conducted in a manner consistent with Title VI of the Civil Rights Act of 1964 and HUD's Title VI Guidance, 72 Fed. Reg. 2732 (Jan. 22, 2007). Management has an obligation to provide meaningful language assistance to individuals who are limited English proficient (LEP). Being LEP means that you have difficulty communicating (reading, writing, speaking) in or understanding English.

Therefore, if you are LEP, management will make reasonable efforts to provide you with interpretation services, free of charge. Additionally, management will make reasonable efforts to provide you with free translated copies of any documents used in the hearing by management.

Failure by management to take reasonable steps to provide interpretation services or translated copies of documents, consistent with Title VI and HUD's Title VI Guidance, will result in the postponement of the hearing.

1. Interpreters

If you require an interpreter for your grievance hearing, you or someone representing you may request an interpreter by providing seven (7) day(s) notice to management.

Management will then make reasonable efforts to secure a qualified interpreter to provide interpretation services for the purposes of the hearing, at no charge to you.

A "qualified interpreter" is someone who has a demonstrated ability to interpret that goes beyond merely stating that they are bilingual or multilingual, but who has a formal certification or other significant experience as an interpreter in state or federal court or other tribunal. Interpreters should have working knowledge of common terms used in grievance hearings.

You are strongly encouraged to use the free, qualified interpreter assistance provided to you. The use of friends, neighbors, relatives, or others without formal interpretation training as interpreters is highly discouraged. Minor children will not be allowed to act as interpreters.

2. Translation

Reasonable efforts will be made to provide you with translated copies of any documents used in the hearing by management. These documents will be provided to you at least five (5) days before the hearing. Failure to make reasonable efforts to provide translated documents in a timely manner constitutes grounds for a postponement of the hearing.

18-IV.N. Service of Notice

Unless otherwise required by state or local law or otherwise agreed to in writing service of a notice

shall be in person or by U.S. mail, e-mail, or fax to management at the address provided by the management company to the tenant at the address that the management has on record.

If the notice is sent by U.S. mail, add three days to any applicable notice period noted above.

CHAPTER 19: EMERGENCY HOUSING VOUCHERS

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (P.L. 117-2, hereafter referred to "the ARP") into law, which provides over $1.9 trillion in relief to address the continued impact of the COVID-19 pandemic on the economy, public health, State and local governments, individuals, and businesses. Section 3202 of the ARP appropriates $5 billion for new incremental EHVs (Emergency Housing Vouchers), the renewal of those EHVs, and fees for the cost of administering the EHVs and other eligible expenses to prevent, prepare, and respond to coronavirus to facilitate the leasing of the emergency vouchers, such as security deposit assistance and other costs related to retention and support of participating owners.

On March 6, 2025, HUD announced the anticipated end of federal funding for the EHV program and that it will allocate all EHV HAP funds that remain available to HUD under the ARP. While there will be no additional funding beyond the amount made available under the ARP, if the EHV HAP funds last longer than the anticipated calendar year 2026, they will not expire until September 30, 2035. Chapters 4 and 17 address the Authority's approach for transitioning EHV families to other programs.

This chapter sets forth the operating requirements for the EHVs, including the administrative fees and fees for other eligible expenses; the housing assistance payments (HAP) funding renewal process; family eligibility requirements; EHV waivers, alternative requirements, and special rules, including a requirement that families are offered housing search assistance and that PHAs partner with the Continuum of Care (CoC) or other homeless or victim services providers to assist qualifying families through a direct referral process; the EHV recapture and redistribution procedures, and the prohibition on the reissuance of turnover EHVs after September 30, 2023.

Eligibility for EHVs is limited to individuals and families who are: (1) fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking (VAWA violence/abuse) *(See Chapter 2 part IV for policy on VAWA protections and remedies)*; (2) homeless; (3) at risk of homelessness; or (4) recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability. After September 30, 2023, a PHA may not reissue any previously leased EHV, regardless of when the assistance for the formerly assisted family ends or ended.

PART I: ADMINISTRATIVE FEES AND FUNDING FOR OTHER ELIGIBLE EXPENSES

19-I.A. Overview

Section 3202 of the American Rescue Plan (ARP) appropriated $5 billion for incremental Emergency Housing Vouchers (EHVs), the renewal of those EHVs, and fees for the cost of administering the EHVs and other eligible expenses defined in this chapter to prevent, prepare, and respond to the COVID-19 pandemic. These expenses included facilitation of the leasing of emergency vouchers, such as security deposit assistance and other costs related to retention and support of participating owners.

PHAs were previously allocated administrative fee funding for EHV administrative costs and for other eligible expenses described in this chapter. Should additional administrative fee funding be provided, 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 (e.g., regular HCVs, Mainstream vouchers, etc.).

PART II: ELIGIBILITY

19-II.A. Individual and Family Eligibility Under the Qualifying Categories

In order to be eligible for an EHV, an individual or family must meet one of four eligibility categories:

- Homeless;
- At risk of homelessness;
- Fleeing, or attempting to flee, VAWA violence/abuse; or
- Recently homeless and for whom providing rental assistance will prevent the family's
- homelessness or having high risk of housing instability.

In general, the verification that the individual or family meets one of these four eligibility categories is conducted by the CoC or another partnering agency that makes direct referrals to the PHA. 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.

19-II.B. Voucher Term and Extensions Voucher Term

[24 C.F.R. § 982.303]

The initial term must be stated on the voucher [24 C.F.R. § 982.303(a)].

Authority Policy

The initial voucher term will be 120 calendar days.

The family must submit, in writing, a Request for Voucher Extension form at least 15 calendar days prior to the initial voucher term expiration. Only one extension for an additional 90 days may be granted.

19-II.C. Local Preferences

Under the HCV program, PHAs have established a system of local preferences for the selection of families. HUD is waiving § 982.207(a) and establishing an alternative requirement that the local

preferences established by the PHA for HCV admissions do not apply to EHVs. The PHA may choose, in coordination with the CoC and other referral partners, to establish separate local preferences for EHVs, or may simply choose not to establish any local preferences for the EHV waiting list.

Authority Policy

The Authority has selected the following local preferences for the selection of families for EHVs:

1. Individuals or families who are fleeing, or attempting to flee, VAWA violence/abuse;
2. Homeless.

The preference system prioritizes the order in which families on the EHV waiting list are referred but does not allow the Authority to refuse to accept a referred family that meets one of the four EHV eligibility categories or otherwise delay issuance of an available voucher to that eligible family in order to "hold" the voucher for a future referral of a preference holder.

19-II.D. Restrictions on PHA Denial of Assistance to an EHV Applicant

HUD waived §982.552 and § 982.553 and established an alternative requirement with respect to mandatory and permissive prohibitions of admissions for EHV applicants.

Mandatory Prohibitions pursuant to PIH Notice 2021-15:

(1) Admission will be denied 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 to EHV applicants.

(2) Admission will be denied to the program if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program to EHV applicants.

In accordance with PIH Notice 2021-15, Admissions will not be denied when:

- Any member of the family has been evicted from federally-assisted housing 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 §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.

All other Permitted Reasons for Denial of Assistance listed in section 3-III.C. are applicable.

EXHIBIT 19-1: DEFINITIONS OF QUALIFYING CATEGORIES

The following definitions always apply with respect to EHV eligibility, regardless of whether the PHA may have established another definition for any of these terms in its PHA administrative plan.

Individuals and Families Who Are Homeless

The meaning of "homeless" is as such term is defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)), which is codified in HUD's Continuum of Care Program regulations at 24 CFR 578.3 and reads as follows:

Homeless means:

1. An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning:
    i. An individual or family with a primary nighttime residence that is 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 or train station, airport, or camping ground;
    ii. An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals); or
    iii. An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.
2. An individual or family who will imminently lose their primary nighttime residence, provided that:
    i. The primary nighttime residence will be lost within 14 days of the date of application for homeless assistance;
    ii. No subsequent residence has been identified; and
    iii. The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing.
3. Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
    i. Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);

ii. Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;

iii. Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and

iv. Can be expected to continue in such status for an extended period of time because of chronic disabilities; chronic physical health or mental health conditions; substance addiction; histories of domestic violence or childhood abuse (including neglect); the presence of a child or youth with a disability; or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment.

4. Any individual or family who:

i. Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence;

ii. Has no other residence and

iii. Lacks the resources or support networks, e.g., family, friends, and faith- based or other social networks, to obtain other permanent housing,

Individuals or Families Who Are At-Risk of Homelessness

The meaning of "at-risk of homelessness" is as such term is defined in section 401(1) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(1)), which is codified in HUD's Continuum of Care Program regulations at 24 CFR 578.3 and reads as follows:

At risk of homelessness.

1. An individual or family who:

i. Has an annual income below 30 percent of median family income for the area, as determined by HUD;

ii. Does not have sufficient resources or support networks, e.g., family, friends, faith-based or other social networks, immediately available to prevent them from moving to an emergency shelter or another place described in paragraph (1) of the "Homeless" definition above; and

iii. Meets one of the following conditions:

(A) Has moved because of economic reasons two or more times during the 60 days immediately preceding the application for homelessness prevention assistance;

(B) Is living in the home of another because of economic hardship;

(C) Has been notified in writing that their right to occupy their current

housing or living situation will be terminated within 21 days of the date of application for assistance;

(D) Lives in a hotel or motel and the cost of the hotel or motel stay is not paid by charitable organizations or by federal, State, or local government programs for low-income individuals;

(E) Lives in a single-room occupancy or efficiency apartment unit in which there reside more than two persons, or lives in a larger housing unit in which there reside more than 1.5 people per room, as defined by the U.S. Census Bureau;

Is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution); or

(F) Otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness, as identified in the recipient's approved consolidated plan.

2. A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)), section 637(11) of the Head Start Act (42 U.S.C. 9832(11)), section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)), section 330(h)(5)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(5)(A)), section 3(m) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(m)), or section 17(b)(15) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(15)); or

3. A child or youth who does not qualify as "homeless" under this section, but qualifies as "homeless" under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), and the parent(s) or guardian(s) of that child or youth if living with her or him.

Individuals or Families Who Are Fleeing, or Attempting to Flee, Domestic Violence, Dating Violence, Sexual Assault, Stalking, or Human Trafficking

This category is composed of any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking. This includes cases where a HUD-assisted tenant reasonably believes that there is a threat of imminent harm from further violence if they remain within the same dwelling unit, or in the case of sexual assault, the HUD-assisted tenant reasonably believes there is a threat of imminent harm from further violence if they remain within the same dwelling unit that they are currently occupying, or the sexual assault occurred on the premise during the 90- day period preceding the date of the request for transfer.

Domestic Violence includes felony or misdemeanor crimes of violence committed by:

a. A current or former spouse or intimate partner of the victim (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),

b. A person with whom the victim shares a child in common,

c. A person who is cohabiting with or has cohabitated with the victim as a spouse or intimate partner,

d. A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or

e. 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.

Dating Violence means violence committed by a person:

a. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

b. Where the existence of such a relationship shall be determined based on a consideration of the following factors:

1. The length of the relationship;

2. The type of relationship; and

3. 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.

Human Trafficking includes both sex and labor trafficking, as outlined in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7102). These are defined as:

> *Sex trafficking* means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; (and)
>
> *Labor trafficking* means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Individuals or Families Who Are Recently Homeless

This category is composed of individuals and families determined by the CoC or its designee to

meet the following definition.

Recently Homeless is defined as individuals and families who have previously been classified by a member agency of the CoC as homeless but are not currently homeless as a result of homeless assistance (financial assistance or services), temporary rental assistance or some type of other assistance, and where the CoC or its designee determines that the loss of such assistance would result in a return to homelessness or the family having a high risk of housing instability. Examples of households that may be defined as recently homeless by the CoC include, but are not limited to, participants in rapid rehousing, and permanent supportive housing.

HCV ADMINISTRATIVE PLAN ACRONYMS

ACC	Annual Contributions Contract
ADA	The Americans with Disabilities Act
ADAAG	The Americans with Disabilities Act Accessibility Guidelines
ADU	Accessory Dwelling Unit
AHAP	Agreement to Enter into Housing Assistance Payments Contract
AIDS	Acquired Immunodeficiency Syndrome
AMGI	Area Median Gross Income
ARP	American Rescue Plan
Authority	The Housing Authority of the City and County of San Francisco
BMIR	Below Market Interest Rate
CDBG	Community Development Block Grant
CEO	Chief Executive Officer
CFR	Code of Federal Regulations
CoC	Continuum of Care
COLA	Cost of Living Adjustment
COP	Certificate of Preference
DA	District Attorney
DBI	Department of Building Inspections
DHSH or HSH	Department of Homelessness and Supportive Housing
DOJ	Department of Justice
DTHP	Displaced Tenant Housing Preference
DV	Domestic Violence
EHV	Emergency Housing Voucher
EID	Earned Income Disallowance
EITC	Earned Income Tax Credit
EIV	Enterprise Income Verification
ELI	Extremely Low-Income
FAQ	Frequently Asked Questions
FEHA	Fair Employment and Housing Act
FFY	Federal Fiscal Year
FHA	Federal Housing Administration
FMR	Fair Market Rent
FSS	Family Self-Sufficiency Program
FTS	Full-Time Student
FUP	Family Unification Program
FY	Fiscal Year
GED	General Education Development
HA	Housing Authority
HAP	Housing Assistance Payments
HCD	Housing and Community Development

HCV	Housing Choice Voucher
HEA	Higher Education Act
HHS	Department of Health and Human Services
HIV	Human Immunodeficiency Virus
HMO	Health Maintenance Organization
HOME	Home Investment Partnerships Program
HOPWA	Housing Opportunities for Persons With AIDS
HOTMA	Housing Opportunity Through Modernization Act
HSA	Human Services Agency
HUD	U.S. Department of Housing and Urban Development
HUD-VASH	HUD-Veterans Affairs Supporting Housing Program
IMS	Inventory Management System
IPA	Independent Audit
IRS	Internal Revenue Service
Kin-GAP	Kinship Guardianship Assistance Payments
LEP	Limited English Proficiency
LIHTC	Low Income Housing Tax Credit
LIPH	Low Income Public Housing
LOSP	Local Operating Subsidy Program
LQBT	Lesbian, Gay, Bisexual and Transgender Community
MOHCD	Mayor's Office of Housing and Community Development
MOU	Memorandum of Understanding
NCIC	National Crime Information Center
NED	Non-Elderly Disabled
NFPA	National Fire Protection Association
NOFA	Notice of Funding Availability
NSP	Neighborhood Stabilization Program
NSPIRE	National Standards for the Physical Inspection of Real Estate
OCAF	Operating Cost Adjustment factor
OCI	Office of Community Investment
OMB	U.S. Office of Management and Budget
OMI	Owner Move In
OPH	Office of Public Housing
PASS	Plan to Attain Self-Sufficiency
PBV	Project-Based Voucher
PHA	Public Housing Agency
PIC	PIH Information Center
PIH	The Office of Public and Indian Housing
PS	Payment Standard
PTFA	Protecting Tenants at Foreclosure Act
QHWRA	Quality Housing and Work Responsibility Act

RA	Reasonable Accommodation
RAD	Rental Assistance Demonstration
RCFCI	Residential Care Facilities for the Chronically Ill
RESPA	Real Estate Settlement Procedures Act
RFP	Request for Proposals
RHIIP	Rental Housing Integrity Improvement Project
ROSS	Resident Opportunity and Self-Sufficiency
ROSS-SC	Resident Opportunity and Self-Sufficiency Service Coordinator
RTA	Request for Tenancy Approval
S8	Section 8
SAFMR	Small Area FMR
SEMAP	Section 8 Management Assessment Program
SFHA	San Francisco Housing Authority
SFPD	San Francisco Police Department
SRO	Single Room Occupancy
SSA	Social Security Administration
SSDI	Supplemental Security Disability Issuance
SSN	Social Security Number
SWICA	State Wage Information Collection Agency
TANF	Temporary Assistance to Needy Families
The "Act"	The United States Housing Act of 1937
TRCF	Transitional Residential Care Facilities
TTD/TTY	Text Telephone Display/Teletype
TTP	Total Tenant Payment
TVPA	Trafficking Victims Protection Act
U.S.P.S.	United States Postal Services
UA	Utility Allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Up-front Income Verification
UNP	Unrestricted Net Position
URA	The Uniform Relocation Assistance and Real Property Acquisition Act
USCIS	United States Citizenship and Immigration Services
VA	Department of Veterans Affairs
VAMC	Veterans Affairs Medical Center
VASH	Veterans Assistance and Supportive Housing
VAWA	Violence Against Women Reauthorization Act
VCA	Voluntary Compliance Agreement
VMS	Voucher Management System
WIC	Women, Infants, and Children Program
WRAP	Witness Relocation and Protection