



# Housing Choice Voucher Program

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## Administrative Plan

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**Effective January 1, 2024\***

*\*Except for the Housing Opportunity Through Modernization Act (HOTMA) revisions, which will be implemented upon receipt of the applicable software updates later in FY 2024 per PIH Notice 2023-27, or a later date to be determined by future HUD guidance.*

# HCV Administrative Plan

## Housing Authority City of Pittsburgh

**Effective January 1, 2024\***

*\* Except for the Housing Opportunity Through Modernization Act (HOTMA) revisions outlined below, which will be implemented upon receipt of the applicable software updates later in FY 2024 per PIH Notice 2023-27, or a later date to be determined by future HUD guidance.*

Chapter	Page	Summary of HOTMA Change
1	4	Added information on HOTMA in overview and history of the program
3	26	Asset limitation language
3	27	New language for definition of family
3	30	New definition of minor
6	99	Entirely new chapter
7	183	Form HUD-9886 is signed once instead of annually
7	183	Policy on signing consent forms when the family member turns 18
7	183-184	Revocation of consent
7	187-188	Safe harbor income determinations from means-tested federal assistance programs policy
7	189-197	Verification hierarchy changed by Notice PIH 2023-27
7,14	191, 356	EIV only at annuals
7	193	Update requirements for EIV
7	200-203	Added information on self-certification and third-party verification of SSNs
7	211-212	Updated self-employment and income from businesses verification language
7	213	Updated notice number and changed verification from 60 to 120 days for Social Security benefit verification
7	213	Updated child support language
7	214	Added information on self-certification of non-recurring income
7	214-215	Self-certification of asset equal to or less than \$50,000
7	217	Self-certification of rental property
7	218	Added information on tax returns
7	218	Retirement accounts are not assets
7	220	Student financial aid assistance
7	222-223	Health and medical care expenses
7	214-217	Value of assets and asset income
11	298	Annual reexams using past income
11	301	Updated information on interims
11	301	Updated information on interims
11	301-303	Updated household composition requirements
11	301-303	Updated household composition requirements
11	303-304; 312	Sunset of EID
11	304	Interim increases and decreases
11	305	Interim reporting requirements
11	306-307	Effective dates
11	312	Added non-interim transactions
14	362-363	De minimis errors
17	473	Asset limitation
18	519	Asset limitation
Glossary	GL 1 – GL 16	Various HOTMA changes

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# CHAPTER 1: OVERVIEW OF THE PROGRAM AND PLAN

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## INTRODUCTION

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

This chapter contains information about the role of a PHA, and the HACP programs with emphasis on the HCV tenant-based program. It also contains information about the purpose, intent and use of the plan and guide.

There are three parts to this chapter:

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

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

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

## PART I: THE PHA

### 1-I.A.OVERVIEW

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

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

The tenant-based Housing Choice Voucher (HCV) program is funded by the federal government and administered by the **Housing Authority City of Pittsburgh in the jurisdiction of the City of Pittsburgh, Allegheny County, Pennsylvania.**

The officials of the HACP are known as commissioners or, collectively, as the board of commissioners. Commissioners are appointed in accordance with state housing law and generally serve in the same capacity as the directors of a corporation, establishing policies under which the HACP conducts business, ensuring that policies are followed by HACP staff and ensuring that the HACP is successful in its mission. The board is responsible for preserving and expanding the agency's resources and assuring the agency's continued viability.

The HACP takes formal actions through written resolutions, adopted by the board of commissioners and entered into the official records of the PHA.

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

## 1-I.C. PHA MISSION

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

### HACP Policy

#### HACP Agency-Wide Mission

- To bring a higher quality of life to City of Pittsburgh residents by creating safe, affordable housing in conjunction with comprehensive support services, attentive property management and forward-thinking real estate development strategies.

#### HACP HCV Department Mission

- To assure the availability of quality housing for low-income persons and to promote the civic involvement and economic self-sufficiency of residents and to further the expansion of affordable housing within the City of Pittsburgh.

## 1-I.D. THE PHA's PROGRAMS

The following programs are included under this administrative plan:

- The Housing Choice Voucher program
- The HACP's Moving to Work (MTW) Homeownership program
- The Project-Based Voucher (PBV) program
- The Rental Assistance Demonstration (RAD) PBV program

HCV policies also pertain to clients participating in the HACP's Family Self Sufficiency program.

## **1-I.E. THE HACP’S COMMITMENT TO ETHICS AND SERVICE**

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

- Administer applicable federal and state laws and regulations to achieve high ratings in performance measurement indicators while maintaining efficiency in program operation to ensure fair and consistent treatment of clients served.
- Provide decent, safe, and sanitary housing – in compliance with program housing quality standards – for very low-income families while ensuring that family rents are fair, reasonable, and affordable.
- Encourage self-sufficiency of participant families and assist in the expansion of family opportunities, which address educational, socio-economic, recreational and other human services needs.
- Promote fair housing and the equal opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- Promote a housing program, which maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.
- Promote a market-driven housing program that will help qualified low-income families be successful in obtaining affordable housing and increase the supply of housing choices for such families.
- Create positive public awareness and expand the level of family, owner, and community support in accomplishing the HACP’s mission.
- Attain and maintain a high level of standards and professionalism in day-to-day management of all program components.
- Administer an efficient, high-performing agency through continuous improvement of the HACP’s support systems and a high level of commitment to our employees and their development.

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

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

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

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

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

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

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

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

The 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 fourteen (14) different sections that impact the public housing and Section 8 programs. The Final Rule implementing broad changes to income and asset in Sections 102 and 104 of HOTMA, and for PHAs that administer the public housing program over-income provisions in Section 103, was officially published in the *Federal Register* on February 14, 2023. On September 29, 2023, HUD issued notice PIH 2023-27, which provided guidance to PHAs on the implementation of the program changes described in the Final Rule.



## **1-II.B. HCV PROGRAM BASICS**

The purpose of the HCV program is to provide rental assistance to eligible families. The U.S. Department of Housing and Urban Development (HUD) determines the rules and regulations of the HCV program. The PHA is afforded choices in the operation of the program, which are included in the Administrative Plan, a document approved by the board of commissioners of the PHA. Because the HACP is an MTW agency, its range of choices is much broader than non-MTW the PHAs.

The HCV program offers mobility to eligible families because they may search for suitable housing anywhere in the PHA's jurisdiction and may 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 PHA issues the family a housing voucher. When the family finds a suitable housing unit and funding is available, the PHA will enter into a contract with the owner and the family will enter into a lease with the owner. Each party makes their respective payment to the owner so that the owner receives full rent.

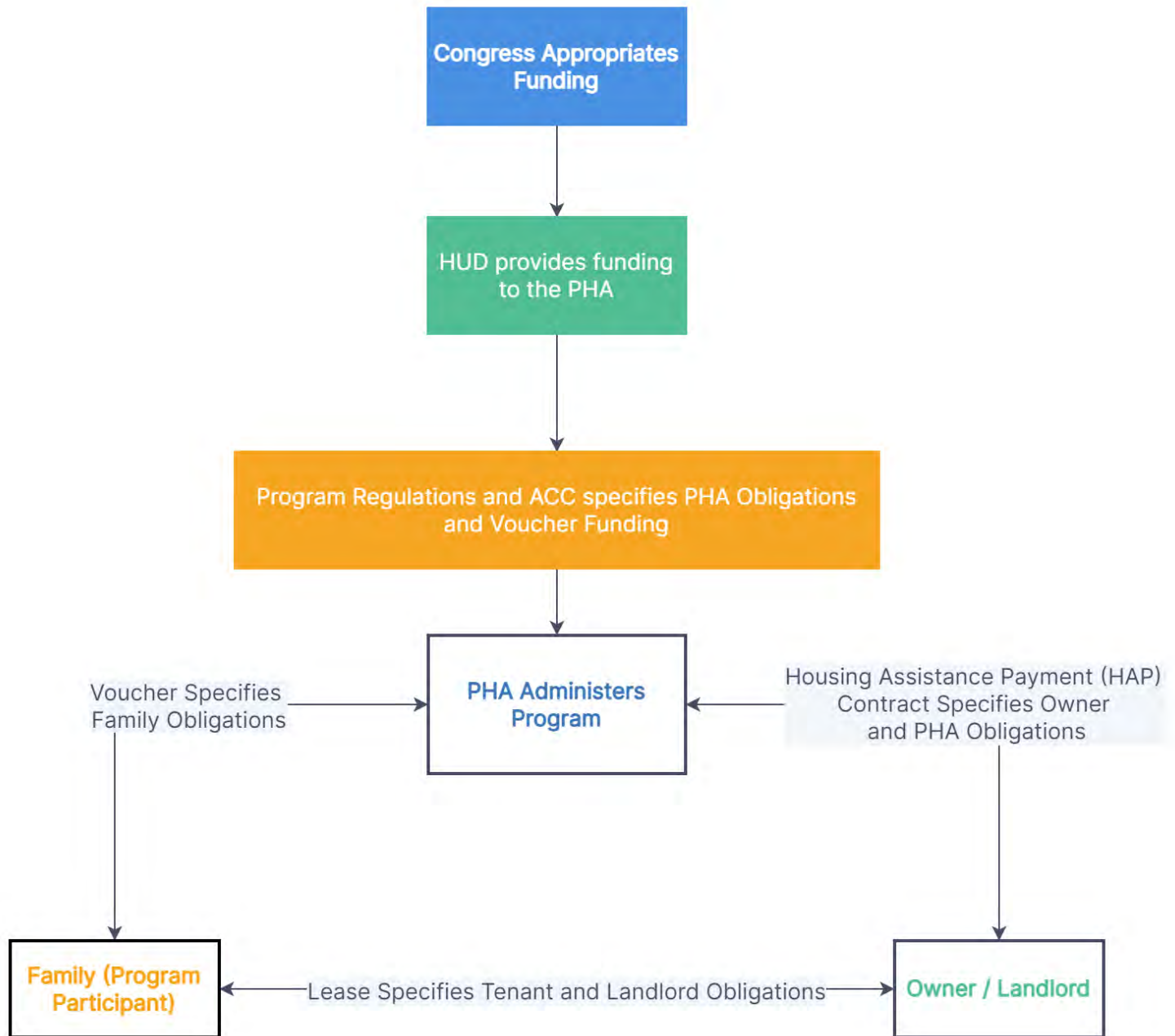
Even though the family is determined to be eligible for the program, the owner has the responsibility of approving the family as a suitable renter. The PHA continues to make payments to the owner as long as the family is eligible and the housing unit continues to qualify under the program.

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

To administer the HCV program, the PHA enters into a contractual relationship with HUD (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.



## What Does HUD Do?

HUD has the following major responsibilities:

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

## What Does the PHA Do?

The PHA 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-ensuring compliance with housing quality standards and rent reasonableness), the owner, and the tenancy;
- Make housing assistance payments to the owner in a timely manner;
- Recertify families for continued eligibility under the program;
- Ensure that owners and families comply with their contractual obligations;
- Provide families and owners with prompt, professional service;
- Comply with all fair housing and equal opportunity requirements, HUD regulations and requirements, the Annual Contributions Contract, HUD-approved applications for funding, the PHA's administrative plan, and other applicable federal, state and local laws.

## What Does the Owner Do?

The owner has the following major responsibilities:

- Screen families who apply for tenancy, to determine suitability as renters.
  - The PHA can provide some information to the owner, but the primary responsibility for tenant screening rests with the owner.
  - The owner should consider family background factors such as rent and bill-paying history, history of caring for property, respecting the rights of others to peaceful enjoyment of the property, compliance with essential conditions of tenancy, whether the family is engaging in drug-related criminal activity or other criminal activity that might threaten others.
- Comply with the terms of the Housing Assistance Payments contract executed with the PHA;
- Comply with all applicable fair housing laws and do not discriminate against anyone;
- Maintain the housing unit in accordance with Housing Quality Standards (HQS) and make necessary repairs in a timely manner;
- Collect rent due from the assisted family and otherwise comply with and enforce provisions of the dwelling lease.

## What Does the Family Do?

The family has the following responsibilities:

- Provide the PHA with complete and accurate information as determined by the PHA 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 PHA;
- Allow the PHA to inspect the unit at reasonable times and after reasonable notice;
- Take responsibility for care of the housing unit, including any violations of housing quality standards caused by the family;
- Comply with the terms of the lease with the owner;
- Comply with the family obligations of the voucher;
- Not commit serious or repeated violations of the lease;
- Not engage in drug-related or violent criminal activity;
- Notify the PHA and the owner before moving or terminating the lease;
- Use the assisted unit only for residence and as the sole residence of the family. Not sublet the unit, assign the lease, or have any interest in the unit;
- Promptly notify the PHA of any changes in family composition;
- Not commit fraud, bribery, or any other corrupt or criminal act in connection with any housing programs.

## 1-II.D. APPLICABLE REGULATIONS

Applicable regulations include:

- 24 CFR Part 5: General Program Requirements
- 24 CFR Part 8: Nondiscrimination
- 24 CFR Part 35: Lead-Based Paint
- 24 CFR Part 100: The Fair Housing Act
- 24 CFR Part 982: Section 8 Tenant-Based Assistance: Housing Choice Voucher Program
- 24 CFR Part 983: Project-Based Vouchers
- 24 CFR Part 985: The Section 8 Management Assessment Program (SEMAP)

## PART III: THE HCV ADMINISTRATIVE PLAN

### 1-III.A. OVERVIEW AND PURPOSE OF THE PLAN

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

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

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

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

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

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

- Selection and admission of applicants from the 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 the 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. The PHA administrative plan must describe how the PHA issues extensions or suspensions, and how the PHA determines the length of any extension or suspension.~~ If the PHA decides to allow extensions for the voucher term, the PHA Administrative Plan must describe how the PHA determines whether to grant extensions, and how the PHA determines the length of any extension (Chapter 5);
- Any special rules for use of available funds when HUD provides funding to 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 982.553 (Chapters 3 and 12);
- Encouraging participation by owners of suitable units located outside areas of low income or minority concentration (Chapter 13);
- Assisting a family that claims that illegal discrimination has prevented the family from leasing a suitable unit (Chapter 2);

- Providing information about a family to prospective owners (Chapters 3 and 9);
- Disapproval of owners (Chapter 13);
- Subsidy standards (Chapter 5);
- Family absence from the dwelling unit (Chapter 12) ;
- How to determine who remains in the program if a family breaks up (Chapter 3);
- Informal review procedures for applicants (Chapter 16);
- Informal hearing procedures for participants (Chapter 16);
- The process for establishing and revising voucher payment standards, including policies on administering decreases in the payment standard during the HAP contract term (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 housing quality standards inspections (Chapter 8); and
- The PHA screening of applicants for family behavior or suitability for tenancy (Chapter 3).
- Policies governing the project-basing of vouchers in both the standard Project-Based Voucher (PBV) program (Chapter 17) and the RAD Project-Based Voucher program (Chapter 18); and
- Special policies governing any special purpose vouchers issued by the PHA (Chapter 19).

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

HUD makes a distinction between:

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

HUD expects PHAs to adopt local policies and procedures that are consistent with mandatory policies in areas where HUD gives the PHA discretion. 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.

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

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

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

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

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

#### HACP Policy

The HACP will review ~~the plan at least once a year and will and~~ update the plan as needed, to reflect changes in regulations, HACP operations, or when needed to ensure staff consistency in operation.

In general, the HACP will apply mandatory/required (as specified by HUD) changes to the plan without posting for public comment or presenting them to the board of commissioners, except in the following instances:

- When HUD specifically requires public comment or board of commissioners’ approval for mandatory changes in guidance for implementing regulatory or statutory changes.
- All discretionary changes to the plan will be posted for public comment and presented to the board of commissioners.



## CHAPTER 2: FAIR HOUSING AND EQUAL OPPORTUNITY

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### INTRODUCTION

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

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

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

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

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

### PART I: NONDISCRIMINATION

#### 2-I.A. OVERVIEW

Federal laws require PHAs to treat all applicants and participants equally, providing the same opportunity to access services, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. The HACP will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063 [and 13988](#)
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975

- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- [The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 3, 2012 and further clarified in Notice PIH 2014-20](#)
- Violence Against Women Act (VAWA)

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

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

### HACP Policy

When more than one civil rights law applies to a situation, the HACP will implement the most stringent regulation.

The HACP strives to fully comply with all federal, state and local nondiscrimination laws including, but not limited to, the *Americans with Disabilities Act* (42 USC Sections 12101, et seq.); the United States *Fair Housing Act* (42 USC Sections 3601, et seq.), Title VI of the *Civil Rights Acts of 1964* (42 USC Sections 2000d-2000d-7), Section 504 of the *United States Rehabilitation Act of 1973* (29 USC Sections 791, et seq.), the *Pennsylvania Human Relations Act* (43 P.S. Sections 951 et seq.) and the Title VI, Chapter 651 of the *Code of the City of Pittsburgh*.

## **2-I.B. NONDISCRIMINATION**

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

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

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

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

### HACP Policy

The HACP ~~will not discriminate on the basis of marital status or sexual orientation~~ [does not identify any additional protected classes.](#)

The PHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- [Subject anyone to sexual harassment](#)
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program

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

### **Providing Information to Families and Owners**

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

## **2-I.C. DISCRIMINATION COMPLAINTS**

### **General Housing Discrimination Complaints**

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

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

### **HACP Policy**

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

Within ten (10) business days of receiving the complaint, the HACP will investigate and attempt to remedy discrimination complaints made against the HACP. The HACP 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 HACP lobbies, will reference how to file a complaint with FHEO.

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

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

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

### HACP Policy

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

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

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

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

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

## VAWA Complaint Processing [Notice FHEO 2023-01]

A complainant may, not later than one (1) year after an alleged VAWA violation has occurred or terminated, file a complaint with FHEO alleging such violation. If there is a violation that began prior to a year before the complaint is filed, but it continues into the one (1) year time period, HUD will accept the complaint. FHEO will investigate the complaint if it is timely and FHEO otherwise has jurisdiction. If a complaint is filed more than one (1) year after the alleged violation occurred or terminated, FHEO may, but is not required to, investigate the allegations under the additional authority and procedures described in FHEO 2023-01.

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

### HACP Policy

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

The HHA will advise the family of their right to file a VAWA complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO). The HACP will inform the family that not later than one (1) year after an alleged VAWA violation has occurred or terminated, applicants and tenants who believe they have been injured by a VAWA violation or will be injured by such a violation that is about to occur may file a VAWA complaint using FHEO's online complaint form via mail, email, or telephone.

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

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

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

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

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

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

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

#### **HACP Policy**

All applicants or participants will be informed of the HACP policy on reasonable accommodations. The HACP will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by the HACP, by including the following language:

*If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the HACP Disability Compliance Office at 412.456.5282 or (TTD) 412.201.5384.*

A specific name and phone number of designated staff will be provided to process requests for accommodation. Requests for reasonable accommodations are date stamped upon receipt.

The HACP will display posters and other housing information and signage in locations throughout HACP's offices in highly visible areas that are easily readable from a wheelchair.

### **2-II.B. DEFINITION OF REASONABLE ACCOMMODATION**

A reasonable accommodation is an adjustment made to a rule, policy, practice, or service that allows a person with a disability to have equal access to the HCV program. For example, reasonable accommodations may include making home visits, extending the voucher term, or approving an exception payment standard in order for a participant to lease an accessible dwelling unit. A person with a disability may require certain types of accommodation in order to have equal access to the HCV program. The types of reasonable accommodations the PHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

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

### **Types of Reasonable Accommodations**

When needed, the PHA will modify normal procedures to accommodate the needs of a person with disabilities. Examples include (but are not limited to):

- Permitting applications and reexaminations to be completed by mail
- Conducting home visits
- Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
- Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit
- Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff

### **2-II.C. REQUEST FOR AN ACCOMMODATION**

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

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

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

#### **HACP Policy**

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

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

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



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

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

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

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

- Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act]
- The PHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The PHA will not inquire about the nature or extent of any disability.
- Medical records will not be accepted or retained in the participant file.
- In the event that the PHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, the PHA will dispose of it. In place of the information, the PHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information [Notice PIH 2010-26].

### HACP Policy

The following outlines the procedures for the submission of reasonable accommodation requests. Alternate means of filing a request, such as personal interviews, phone calls, or taped requests, will be made available for applicants or residents with disabilities who are unable to communicate their requests in writing. All forms and other materials will be provided to the requestor in alternative, acceptable formats upon request to the Disability Compliance Office, currently at 412.456.5282, ~~fax 412-456-5007~~, TDD 412-201-5384.

Residents and voucher holders may request a reasonable accommodation by obtaining a Reasonable Accommodation Form from the Housing Choice Voucher Department. Upon completion of the form, residents and voucher holders will submit the form to any staff of the department. If a verbal request is made to the staff, the staff will reduce the request to writing on the Reasonable Accommodation Request Form. The staff will forward the Reasonable Accommodation Request Form to the [Section 504/ADA Compliance](#) Coordinator within two (2) business days of receipt of the request.



The HACP will maintain, in its Housing Choice Voucher Office, a list of all known accessible apartments and provide it to applicants and residents with disabilities. Through its Moving to Work (MTW) authority, the HACP is approved to increase the payment standard by ten (10) percent of the unit's applicable tiered payment standard amount for people with disabilities in need of unit modifications. The family must be approved for a change to the payment standard through the reasonable accommodation process and/or submit evidence that the unit is fully wheelchair accessible, or has a minimum of at least four (4) accessible features that are needed by the prospective voucher holder, which would need to be verified by their third party professional. Additionally, the unit must be inspected by the HACP to confirm the required accessible features as outlined in the reasonable accommodations approval letter are present.

## **2-II.E. APPROVAL/DENIAL OF A REQUESTED ACCOMMODATION [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26].**

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

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

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the overall size of the PHA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

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

### **HACP Policy**

After a request for an accommodation is presented, all requests will be forwarded to the Section 504/ADA [Compliance](#) Coordinator within two (2) days of its receipt. The [Section 504/ADA Compliance](#) Coordinator will notify the requestor in writing or alternative format for reasonable accommodation of the decision within thirty (30) days of receipt of the completed request.

If the request for a reasonable accommodation is approved, the requestor and the Housing Choice Voucher Department will be notified in writing or other format as requested, of the timeline for implementation and completion.

If the HACP denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, ~~If the request is not approved,~~ the decision will be forwarded to the requestor and the Housing Choice Voucher Department in writing or other format as requested explaining the reasons for the denial of the accommodation and informing the requestor of his or her right to request an informal review and/or a formal grievance hearing in accordance with HACP's Grievance Procedure (see Chapter 16). The Section 504/ADA Compliance Coordinator may permit the extension of time to file a request for a formal hearing as a reasonable accommodation to the requestor if such a time extension is necessary.

~~If the HACP denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden, fundamentally alter the nature of the HACP's operations, or if granting the request will cause a direct threat to other residents or HACP employees), the HACP will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program, without imposing an undue financial and administrative burden and/or without directly threatening other residents or HACP employees.~~

~~Requests may be denied if the requestor is not found to be a qualified individual with a disability as defined under Section 504 of the Rehabilitation Act, the Fair Housing Act, the Americans with Disabilities Act, or any other applicable federal, state, or local laws.~~

~~Requests will also be denied if they will cause the HACP an undue financial and administrative burden, if they will fundamentally alter the nature of the HACP's programs or services, or if granting the request will cause a direct threat to other residents or HACP employees.~~

~~If the HACP believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the HACP will notify the family in writing of its determination within ten (10) business days from the date of the most recent discussion or communication with the family. denies a request for an accommodation, a written notice or alternative format will be forwarded to the requestor informing the family of the right to appeal HACP's decision through an informal hearing (if applicable, see Chapter 16).~~

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

~~If the HACP believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the HACP will notify the family, in writing or other format for reasonable accommodation, of its determination within thirty (30) business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal the HACP's decision through an informal hearing (if applicable, see Chapter 16).~~

The Section 504/ADA Compliance Coordinator shall inform the requestor in writing or other format for reasonable accommodation, that if he or she believes that the decision is based on discrimination, whether or not the HACP Grievance Procedure is pursued, he or she has the right to file a complaint with the appropriate local, state, or federal administrative agency, including but not limited to:

U. S. Department of Housing and Urban Development  
William Moorehead Federal Building  
1000 Liberty Ave., Suite 1000  
Pittsburgh, PA 15222-4004  
412-644-6428

Pittsburgh Human Relations Commission  
908 City County Building  
414 Grant Street  
Pittsburgh, PA 15219  
412-255-2600

## 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.

### HACP 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 other alternative forms of translation of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with HACP staff, one-on-one assistance will be provided upon request.

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

## 2-II.G. PHYSICAL ACCESSIBILITY

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

- Notice PIH 2010-26
- Section 504 of the Rehabilitation Act of 1973
- The Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Fair Housing Act of 1988

The PHA's policies concerning physical accessibility must be readily available to applicants and participants. They can be found in ~~two~~three (3) 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 assessments, and transition plans.

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

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

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

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

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

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

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

When reviewing reasonable accommodation requests, the PHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to the PHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, the PHA must make the accommodation. In addition, the PHA must provide any reasonable accommodations necessary for persons with disabilities to participate in the hearing process.

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

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

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

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

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

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

### HACP Policy

The HACP will take affirmative steps to communicate with people who need services or information in a language other than English. The HACP will apprise and/ or advise all LEP ~~and ELL~~ applicants and participants of their right to request a translator to enable them to fully participate in the HACP's programs and services. A notice explaining these services will be posted in various departmental office including the Occupancy and HCV offices.

Information on interpretation services may be obtained from various HACP departments, including Occupancy Department, HCV, and the Section 504/ADA Compliance Coordinator. Applicants or participants requiring interpretative services may make a request by contacting one of the following: the HCV Department, Occupancy Department, or the Section 504/ADA Compliance Coordinator at:

Section 504/ADA Compliance Coordinator  
~~100 Ross Street~~ 412 Blvd. of the Allies, 2<sup>nd</sup>-6<sup>th</sup> Floor  
Pittsburgh, PA 15219  
Phone: 412-456-5020 ext. ~~123~~ 282  
Fax: 412-471-0964  
TDD: 412-201-5384

Occupancy Department  
412 Blvd. of the Allies, 5<sup>th</sup> Floor  
Pittsburgh, PA 15219  
Phone: 412-456-5030  
Fax: 412-456-5182  
TDD: 412-201-5384

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

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

### HACP Policy

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

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

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in a place of or as a supplement to the free language services offered by the HACP. The HACP, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, the HACP will not rely on the minor to serve as the interpreter.

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

Where feasible, the HACP will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents. Where feasible and possible, the HACP will encourage the use of qualified community volunteers.

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

## 2-III.C. WRITTEN TRANSLATION

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

### HACP Policy

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

- The HACP will provide written translations of vital documents for each eligible LEP language group that constitutes five (5) percent or 1,000 persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
- If there are fewer than fifty (50) persons in a language group that reaches the five (5) percent trigger, the HACP does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

## 2-III.D. IMPLEMENTATION PLAN

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

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

### HACP Policy

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

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



## **EXHIBIT 2-1: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS [24 CFR PARTS 8.3 AND 100.201]**

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

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

The phrase “physical or mental impairment” includes:

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

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

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

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

The definition of a person with disabilities does not include:

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

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

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

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



## CHAPTER 3: ELIGIBILITY

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### INTRODUCTION

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

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

This chapter contains three parts:

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

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

Part III: Denial of Assistance. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the PHA to deny assistance.

## PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

### 3-I.A. OVERVIEW

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

### **3-I.B. FAMILY AND HOUSEHOLD [24 CFR 982.201(c); ~~HUD-50058-IB, p. 13~~ FR Notice 02/03/12; Notice PIH 2014-20; and FR Notice 2/14/23**

The terms *family* and *household* have different meanings in the HCV program. ~~To be eligible for assistance, an applicant must qualify as a family. The PHA has the discretion to determine if any other group of persons qualifies as a family.~~

#### **Family**

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

- ~~• A single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or~~
- ~~• An otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within ninety (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 at risk of becoming homeless at age 16 or older; or~~
- ~~• A group of persons residing together. Such groups include but are not limited to:~~
- ~~• A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a family member).~~
- ~~• An elderly family,~~
- ~~• A near-elderly family,~~
- ~~• A disabled family,~~
- ~~• A displaced family, and~~
- ~~• The remaining member of a tenant family.~~

~~The PHA has the discretion to determine if any other group of persons qualify as a family.~~

~~*Gender Identity* means actual or perceived gender characteristics.~~

~~*Sexual Orientation* means homosexuality, heterosexuality, or bisexuality.~~

#### **HACP 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, ~~evidencing a stable relationship of at least one year~~ 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 HACP if the family's composition changes.

~~Examples of evidence include a residential lease, utility bills, or other documentation widely accepted by regulatory agencies to include mail from a government entity or current pay stubs listing the address. The discretion to accept other documentation will be determined by the HACP HCV Director or other designated HACP Staff.~~

## Household

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

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

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

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

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

#### HACP Policy

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

If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted. ~~In the event a family breaks up as a result of action associated with VAWA, and the victim and alleged abuser receive subsidy within the same participant household, the subsidy will be assigned to the non-offending household member.~~

If a court determines the disposition of property between members of the applicant or assisted family in a divorce or separation decree, the HACP is bound by the court's determination of which family members continue to receive assistance.

In the absence of a judicial decision or an agreement among the original family members, the HACP will determine which family will retain their placement on the waiting list or continue to receive assistance. In making its determination, the HACP will take into consideration the following factors:

- (1) the interest of any minor children, including custody arrangements;
- (2) the interest of any ill, elderly, or disabled family members;

- (3) the interest of any family member who is the victim of domestic violence, dating violence, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse;
- (4) any possible risks to family members as a result of criminal activity; and
- (5) the recommendations of social service professionals.

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

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

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

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

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

#### **HACP Policy**

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

The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

### **3-I.E. SPOUSE, COHEAD, 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.

#### **HACP Policy**

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

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

#### **HACP Policy**

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

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

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

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

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

#### Joint Custody of Dependents

##### HACP 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 or as specified in legal documents.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody (51 percent or more) at the time of the initial examination or reexamination will be able to claim the dependents. "51 percent or more" is defined as 183 days of the year, which do not have to run consecutively. Legal documentation must be provided for families who claim joint custody or temporary guardianship. In the event of a dispute or where custody is listed as an equal split (50%) between households, the HACP will review on a case-by-case basis various factors including but not limited to the following - court documents, where the child's financial support is being sent, income, IRS return showing which family has claimed the child for income tax purposes, school records, prior custody arrangements and other relevant information - to make a determination as to where the housing subsidy is apportioned.

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

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

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

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

#### Elderly Persons

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

#### Near-Elderly Persons

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

## **Elderly Family**

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

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

#### **Persons with Disabilities**

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

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

#### **Disabled Family**

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

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

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

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

#### **HACP Policy**

A guest can remain in the assisted unit no longer than thirty (30) consecutive days or ninety (90) cumulative calendar days during any twelve (12) month period.

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

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

### 3-I.K. FOSTER CHILDREN AND FOSTER ADULTS [24 CFR 5.603]

~~A *foster adult* is a member of the household who is 18 years of age or older and meets the definition of a *foster adult* under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition, and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction. are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609].~~

~~The term *A foster child* is a member of the household who meets the definition of a *foster child* under state law. In general, a foster child is placed with the family by an authorized placement agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction. not specifically defined by the regulations.~~

Foster children and foster adults who are living with an applicant or who have been approved by the PHA to live with a participant family are considered household members but not family members. The income of foster children/adults is not counted in family annual income, and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603; HUD-50058 IB, p. 13].

#### HACP Policy

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

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

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

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

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

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

#### HACP Policy

Generally an individual who is or is expected to be absent from the assisted unit for sixty (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

### HACP 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 HACP indicating that the student has established a separate household or the family declares that the student has established a separate household.

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

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

### HACP Policy

If a child has been placed in foster care, the HACP will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member. ~~This definition applies only to participant families (those) that have already have received a voucher.~~

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

### HACP Policy

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

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

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

### HACP Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member. If there is a question pertaining to the actual status of the family member, the HACP 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 HACP will consider, any additional documentation or evidence. ~~If the family consists of a single individual and that family member is absent from the unit for more than one hundred eighty (180) consecutive days, they are considered permanently absent and are no longer considered an active participant in the HCV program.~~

### **Return of Permanently Absent Family Members**

### HACP Policy

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

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

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

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

The income of a live-in aide is not counted in the calculation of annual income for the family [24 CFR 5.609(b)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. Because live-in aides are not *family* members, a relative who serves as a live-in aide would not be considered a remaining member of a tenant family.

#### HACP Policy

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker, 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 HACP verification-at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aid 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.
- (3) is qualified to provide the needed care
- (4) was not part of the household prior to receiving program assistance (within the last 6 months)
- (5) there is no other reason for the aide to reside in the unit (i.e. the individual can demonstrate they have a previous residence they left in good standing), and
- (6) the live-in aide and the participant will maintain separate finances.

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

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

The HACP will notify the family of its decision in writing within thirty (30) business days of receiving a request for a live-in aide, including all required documentation related to the request.

In the event the credit check reveals that the person seeking to be a live-in-aide has an owing balance to a private landlord, the Authority may use the owing balance to deny the applicant if the applicant will manage the finances of the person with the disability, especially as it pertains to paying rent to the Housing Authority of the City of Pittsburgh..

Residents and applicants requesting approval of a live-in aide must follow the reasonable accommodation procedure. Upon approval of the reasonable accommodation for a live-in aide, the Occupancy Department must approve the individual selected. The HACP will perform criminal background checks and apply other tenant selection criteria permitted by law. Upon approval, the live-in aide will be added to the lease as a live-in aide. The income of the live-in aide is not counted. A live-in aide will be given a separate bedroom.

## **PART II: BASIC ELIGIBILITY CRITERIA**

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

#### **Income Limits**

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

#### **Definitions of the Income Limits [24 CFR 5.603(b)]**

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

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

*Extremely low-income family.* A very low-income 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 CFR 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 CFR 982.4; 24 CFR 982.201(b)]

#### **HACP Policy**

The HACP 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 HACP's waiting list.

- A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR 248.173
- A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR 248.101

HUD permits PHA's 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.

### HACP Policy

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

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

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

Families continuously assisted under the 1937 Housing Act 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.

~~Per PIH Notice 2021-15, the income targeting requirements of section 16(b) of the United States Housing Act of 1937 and § 982.201(b)(2) are waived and do not apply to Emergency Housing Voucher (EHV) families. However, the HACP may still choose to include the admission of extremely low income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.~~

### HACP Policy

~~The HACP will include the admission of extremely low income EHV families in its income targeting numbers for the fiscal year in which these families are admitted.~~

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

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

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

## **Declaration [24 CFR 5.508]**

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

### **HACP Policy**

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

### ***Eligible Noncitizens***

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

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

### ***Ineligible Noncitizens***

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

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

## **Mixed Families**

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

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

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

## **HACP Policy**

The HACP will not provide assistance to a family before the verification of at least one (1) family member.

When the HACP 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 ten (10) business days of the determination.

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

Informal hearing procedures are contained in Chapter 16.

## **Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]**

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

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

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

## **HACP Policy**

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



### 3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 20108-324]

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 six (6) has been added to an applicant family within six (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 ninety (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 CFR 5.216. ~~Per PIH Notice 2021-15, HUD is waiving the requirement to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the Emergency Housing Voucher (EHV) program.~~

#### HACP Policy

~~The HACP will accept SSN or eligible noncitizen status documentation within one hundred eighty (180) days of admission to be eligible for continued assistance, pending verification, unless the HACP provides an extension based on evidence from the family or confirmation from the Continuum of Care (CoC) or other partnering agency that the family has made a good faith effort to obtain the documentation.~~

In the event an applicant family is unable to provide the documentation necessary to verify the Social Security Number (SSN) of a family member under the age of 6 years of age, the HACP will grant the family a 90-day period (from the date the family notifies HACP of such inability) in which to provide the necessary documentation for the family member. During this time period, the family may become a program participant. An additional extension of one additional 90-day period must be granted if the PHA determines that, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside of the control of the applicant. If the applicant family does not produce the required documentation within the authorized time period, the PHA or processing entity must impose appropriate penalties, in accordance with 24 CFR 5.218.

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

HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, the form HUD-52675 Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements. The consent forms remains in effect until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.



The PHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR 5, Subparts B and F [24 CFR 982.552(b)(3)].

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

~~The PHA will in addition require other consent forms as needed to collect information relevant for participating in additional programs offer by the PHA such as the Homeownership or FSS programs.~~

### **Right to Privacy**

#### **HACP Policy**

The HACP has established a policy that the family's revocation of consent to allow the HACP to access records from financial institutions will result in denial of admission or termination of assistance, whichever is applicable.

~~The Housing Authority of the City of Pittsburgh endeavors to comply with all applicable laws, both state and federal, regarding privacy rights of both the applicant and tenant households. The Authorization for Release of Information and Privacy Act Notice states how family information will be released and includes the Federal Privacy Act Statement.~~

~~The Housing Authority of the City of Pittsburgh will not release information to third parties regarding the applicant or resident without a "Release of Information" form signed by the resident or applicant, except as required by law and HUD regulation.~~

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

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

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

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

#### **Definitions**

In determining whether and how the new eligibility restrictions apply to a student, the PHA will rely on the following definitions [FR 4/10/06, FR Notice 9/21/16].

## Dependent Child

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

## Independent Student

### HACP Policy

The HACP will consider a student “independent” from their parents and the parents’ income will not be considered when determining the student’s eligibility if the following four (4) criteria are all met:

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

2. The individual has established a household separate from their parents for at least one (1) year prior to application for occupancy or the individual meets the U.S. Department of Education’s definition of an independent student. To be considered an *independent student* according to the Department of Education, a student must meet one or more of the following criteria:

- \*- Be at least 24 years old by December 31 of the award year for which aid is sought
- Be an orphan or a ward of the court, or was an orphan, in foster care, or a ward of the court at any time when the individual was 13 years of age or older through the age of 18
- \*- Be or was immediately prior to attaining the age of majority, an emancipated minor or in a legal guardianship as determined by a court of competent jurisdiction in the individual’s state of legal residence
- \*- Be a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes
- \*- Have one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent)
- \*- Be a graduate or professional student
- Be married
- 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:
  - o A local educational agency homeless liaison
  - o 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
  - o A financial aid administrator
  - o Is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances

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

- 3.4** The individual provides a certification of the amount of financial assistance that will be provided by their parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

### **HACP Policy**

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

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

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

The HACP 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***

#### **HACP 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***

The PHA 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***

#### **HACP Policy**

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

### ***Vulnerable Youth***

#### **HACP Policy**

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

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

- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence
- The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:
  - A local educational agency homeless liaison
  - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director
  - A financial aid administrator

### **Determining Student Eligibility**

If a student is applying for assistance on their own, apart from their parents, the PHA must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612. If the student is subject to those restrictions, the PHA must ensure that:

- (1) the student is individually eligible for the program,
- (2) either the student is independent from their parents or the student's parents are income eligible for the program, and
- (3) the "family" with which the student is applying is collectively eligible for the program

### **HACP Policy**

For any student who is subject to the 5.612 restrictions, the HACP 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 their parents in accordance with the definition of *independent student* in this section.
- Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program.

If the HACP determines that the student, the student's parents (if applicable), or the student's family is not eligible, the HACP will send a notice of denial in accordance with the policies in Section 3-III.F. 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**

### **HACP Policy**

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

- If the student's parents are married and living together, HACP will obtain a joint income declaration and certification of joint income from the parents.
- If the student's parent is widowed or single, HACP will obtain an income declaration and certification of income from that parent.

- If the student's parents are divorced or separated, HACP will obtain an income declaration and certification of income from each parent.
- If the student has been living with one of their parents and has not had contact with or does not know where to contact their other parent, HACP 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 HACP 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, HACP will use the income limits for the jurisdiction in which the parents live.

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

#### **Existing Tenant Search**

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

If the tenant is a new admission to the PHA, and a match is identified at a multifamily property, the PHA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

#### **HACP Policy**

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

#### **Debts Owed to PHAs and Terminations**

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

If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three (3) years from the end of participation date in the program.

#### **HACP Policy**

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

### **Income and Income Validation Tool (IVT) Reports**

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

## **PART III: DENIAL OF ASSISTANCE**

### **3-III.A. OVERVIEW**

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied assistance. A PHA may deny assistance for an applicant because of the family's action or failure to act as described in 24 CFR 982.552 or 983.553. In this section, we will discuss other situations and circumstances in which denial of assistance is mandatory for the PHA, and those in which denial of assistance is optional for the PHA.

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

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

HUD's Office of General Counsel issued a memo on April 4, 2016, regarding the application of Fair Housing Act standards to the use of criminal records. This memo states that a PHA violates the Fair Housing Act when their policy or practice has an unjustified discriminatory effect, even when the PHA had no intention to discriminate. Where a policy or practice that restricts admission based on criminal history has a disparate impact on a particular race, national origin, or other protected class, that policy or practice is in violation of the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the PHA, or if that interest could be served by another practice that has a less discriminatory effect [OGC Memo 4/4/16]. HUD codified this stance on disparate impact and discriminatory effects in a final rule dated March 31, 2023. In doing so, HUD also standardized its long-practiced three (3) step approach to assessing burdens of proof.

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



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

Denial of assistance includes any of the following:

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

## Prohibited Reasons for Denial of Program Assistance [24 CFR 982.202(b), 24 CFR 5.2005(b)]

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

- Age, disability, race, color, religion, sex, or national origin (See Chapter 2 for additional information about fair housing and equal opportunity requirements)
- Where a family lives prior to admission to the program
- Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside HACP'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 victim of domestic violence, dating violence, ~~or~~ stalking, or human trafficking if the applicant is otherwise qualified for assistance (See section 3-III.G.)

## 3-III.B. MANDATORY DENIAL OF ASSISTANCE [24 CFR 982.553(a)]

HUD requires the PHA to deny assistance in the following cases:

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

### HACP Policy

The HACP will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past three (3) years for drug-related criminal activity, if the HACP is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the HACP, or the person who committed the crime, is no longer living in the household.

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



### HACP Policy

*Currently engaged in* is defined as any use of illegal drugs during the previous six (6) months.

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

### HACP Policy

In determining reasonable cause, the HACP will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A record or records of arrest will not be used as the sole basis of determining reasonable cause. The HACP 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
- Any member of the family fails to sign and submit consent forms for obtaining information.
- The family does not meet the restrictions on net assets and real property ownership as required by 24 CFR 5.618.

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

There are two (2) circumstances under which a family is ineligible to receive assistance based on asset ownership.

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

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

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

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

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one (1) non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or

- Any person who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.
  - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the PHA must comply with all the confidentiality requirements under VAWA. The PHA must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

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

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

#### HACP Policy

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

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the PHA or owner);
- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the state or local laws of the jurisdiction where the property is located.

### **3-III. ~~ED~~. OTHER PERMITTED REASONS FOR DENIAL OF ASSISTANCE**

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

#### **Criminal Activity [24 CFR 982.553]**

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

#### HACP Policy

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

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

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

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

Immediate vicinity means within a three (3) block radius of the premises.

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

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

~~Immediate vicinity means within a three (3) block radius of the premises.~~

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

- Any conviction for drug-related or violent criminal activity within the past three (3) years.
- Records of Any arrests for drug-related or violent criminal activity within the past three (3) years, although a record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.
- ~~• Any record of eviction from public or privately owned housing because of criminal activity.~~
- ~~• A conviction for drug related or violent criminal activity will be given more weight than an arrest for such activity.~~

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

### **Lifetime Denial Crimes**

#### ~~Manufacturing Methamphetamines~~

~~If any family member has been convicted of manufacturing or producing met amphetamine (speed) in a public housing development or in a Section 8 assisted property, they will be denied admission to HACP for life.~~

#### **Lifetime Sex Offender**

~~Prohibition on persons subject to Lifetime Sex Offender Registration requirement:~~

~~If any family member is subject to a lifetime registration under a state sex offender registration program, he/she will be denied for life by HACP.~~

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

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

HUD authorizes the PHA to deny assistance based on the family's previous behavior in assisted housing. PHAs are not permitted to deny assistance to a family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program [24 CFR 984.101(d)].:

### **HACP Policy**

~~The HACP may deny assistance to an otherwise eligible family because the family previously failed to meet its obligations under the Family Self-Sufficiency (FSS) program.~~

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

- The family does not provide information or misrepresents information that the HACP or HUD determines is necessary in the administration of the program.
- The family does not provide complete and true information to the HACP.
- ~~Any family member has been evicted from federally-assisted housing or terminated from a Housing Choice Voucher Program within the past five (5) years for any reason other than the non-payment of rent. The five year (5) limit is based on the date of such eviction in the last three (3) years.~~
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family owes rent or other amounts to any PHA in connection with Section 8 or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- If the family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list.
- ~~Has a record of unsuitable past performance in meeting financial obligations, including rent within the past five years~~
- ~~Has a record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five years, which may adversely affect the health, safety, or welfare of other tenants.~~
- ~~A PHA has ever terminated assistance under the program for any member of the family.~~
- The family has breached the terms of a repayment agreement entered into with the HACP, unless the family repays the full amount of the debt covered in the repayment agreement prior to being selected from the waiting list.
  - When denying admission due to family debts as shown in HUD's EIV system, the HACP will provide the family with a copy of the EIV Debt Owed to PHA and Termination report.
  - If the family wishes to dispute the information in the report, the family must contact the PHA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to the PHA to support the family's claim. The HACP will consider the information provided by the family prior to issuing a notice of denial.
- A family member has engaged in or threatened violent or abusive behavior toward HACP personnel.
  - *Abusive or violent behavior towards HACP 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 HACP will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the HACP may, on a case-by-case basis, decide not to deny assistance.

## HACP Policy

The HACP will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations, including rent.

### ~~3-III.D. RESTRICTIONS ON DENIAL OF ASSISTANCE TO AN EHV APPLICANT~~

~~Per PIH Notice 2021-15, HUD is waiving 24 CFR 982.552 and 982.553 in part and establishing an alternative requirement with respect to mandatory and permissive prohibitions of admissions for EHV applicants. The EHV alternative requirement is as follows:~~

#### **Mandatory Prohibitions**

~~(1) The PHA must apply the standards it established under § 982.553(a)(1)(ii)(C) that prohibit admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing to EHV applicants.~~

~~(2) The PHA must apply the standards it established under § 982.553(a)(2)(i) that prohibit admission 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.~~

~~Unlike regular HCV admissions, the PHA may not deny an EHV applicant admission regardless of whether:~~

- ~~• Any member of the family has been evicted from federally assisted housing or if a PHA has ever terminated assistance under the program for any member of the family.~~
- ~~• The family currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.~~
- ~~• The family has not reimbursed any PHA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.~~
- ~~• The family breached an agreement with the PHA to pay amounts owed to a PHA, or amounts paid to an owner by a PHA.~~
- ~~• The family would otherwise be prohibited admission under alcohol abuse standards established by the PHA in accordance with §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.~~

~~Similar to the HUD-Veterans Affairs Supportive Housing (HUD-VASH) program, HUD is eliminating the PHA's permissive prohibitions for EHV admissions for drug-related criminal activity.~~

~~The PHA must still deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information in accordance with 24 CFR part 5 as required by 982.552(b)(3), but should notify the family of the limited EHV grounds for denial of admission first.~~

#### **Permissive Prohibitions**

~~The permissive prohibitions that may be implemented at the PHA's discretion are:~~

~~(1) If the PHA determines that any household member is currently engaged in, or has engaged in within the previous twelve (12) months:~~

- ~~a. Violent criminal activity.~~

~~b. Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity.~~

~~(2) If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program within the previous twelve (12) months.~~

~~(3) If the family engaged in or threatened abusive or violent behavior toward PHA personnel within the previous twelve (12) months.~~

#### HACP Policy

~~The HACP has not adopted any of the EHV permissive prohibitions in its applicant screening processes.~~

### 3-III.E. SCREENING

#### Screening for Eligibility

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

#### HACP Policy

The HACP will perform a criminal background check through local law enforcement or a legally authorized firm to provide this information for every adult household member.

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

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

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

#### HACP Policy

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

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

If 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 CFR 5.903(f) and 5.905(d)].



## **HACP Policy**

The HACP will look at past conduct as an indicator of future conduct. Emphasis will be placed on whether a family's admission could reasonably be expected to have a detrimental effect on the development, environment, other tenants, HACP employees, or other people residing in the immediate vicinity of the property. Otherwise eligible families will be denied admission if they fail to meet the tenant selection criteria.

Applicants will be given the opportunity to inform the HACP of mitigating circumstances for consideration by the HACP.

Examples of mitigating circumstance may include documentation that the applicant attended classes, counseling or other services to address and correct the past behavior.

Applicant families will be evaluated to determine whether, based on their recent behavior, such behavior could reasonably be expected to result in non-compliance with the public housing lease. PHA will consider objective aspects of the family's background including, but not limited to, the following:

- A history of criminal activity;
- Rental History – Applicant owes rent or money damages to past landlords including, but not limited to, a Public Housing Authority; and
- Tenant History – A check for the existence of a record of disturbance of neighbors, destruction of property, or living/housekeeping habits, which may adversely affect the health, safety or welfare of other residents.

### **Criminal Background Check (CBC)**

A criminal background check will be performed on all applicants for housing and, subject to the considerations noted below (e.g., evidence of rehabilitation, additional reasons for denial, denied for life, etc.). For the Special Purpose Vouchers such as Veteran's Affairs Supportive Housing (VASH) and Emergency Housing Vouchers (EHV), the HACP will follow any mandatory alternative requirements as required by the applicable program regulations and PIH Notices. If any of the policies in the HACP Administrative Plan conflict with the Special Purpose Voucher federal operating requirements and/or PIH Notices, the federal operating requirements and/or PIH Notices will govern.

For the purpose of this Policy, if any member of the applicant family is currently charged with any of the following listed offenses, including offenses listed in subsequent sections on 10 Year Denial, Denial for Sex Offenders and Denied for Life sections, they may be determined to have engaged in criminal activity, drug-related criminal activity or violent criminal activity and may be denied admission while the charges are pending. An ARD placement shall not be considered a conviction for these purposes.



**5 Year Denial:** Any conviction for the following crimes, including solicitation, conspiracy or attempt to commit any of the following crimes, will deny an applicant admission into the housing program for five (5) years from the date of conviction:

Offenses involving Danger to the Person:	Drug Offenses:	Offenses Against Property:	Burglary and Other Criminal Intrusion:	Theft and Related Offenses (Felonies Only):	Other Offenses:
Voluntary Manslaughter	Possession or Delivery of a Controlled Substance	Causing or Risking a Catastrophe	Burglary	Theft by Unlawful Taking or Disposition	Disarming a Law Enforcement Officer
Simple or Aggravated Assault	Possession with the Intent to Deliver a Controlled Substance	Criminal Mischief (when amounts exceeds \$5,000)	Robbery	Theft by Deception	Prostitution / Promoting Prostitution
Involuntary Manslaughter	Manufacturing of any Controlled Substance or New Drug	Felony Criminal Trespass		Theft by Extortion	Corruption of Minors
Endangering the Welfare of a Child	Any Controlled Substance Possession or Use			Theft of Services	Any Violation of the Uniform Firearms Act
Reckless Endangerment of Another Person	Solicitation of a Minor to Traffic Drugs			Theft of Leased Property	Endangering the Welfare of Children
Stalking				Theft by Failure to Make Required Disposition of Funds Received	Open Lewdness
Felony or Misdemeanor Harassment				Forgery	Resisting Arrest
False Imprisonment				Access Device Fraud	Ethnic Intimidation or Any Hate Crime
Riot				Identity Theft	Statutory Rape
Terroristic Threats					Statutory Sexual Assault
Unlawful Restraint					

**10 Year Denial:** An applicant will be denied for ten (10) years from the date of conviction for any crime of attempt, conspiracy or solicitation to commit murder, rape, arson, kidnapping or involuntary deviate sexual intercourse.

**Denial for Other Sex Offenders:** Except where banned for life or subject to present sex registry registration exclusion, admission will be denied to any household member currently charged with or convicted in the last ten (10) years of the projected date of admission of any offense listed as a sexual offense in Pennsylvania Consolidated Statutes Annotated, or a conviction in another state of a similar offense. This includes any attempt, conspiracy or solicitation to commit these crimes and includes the crime of indecent assault or the attempt, conspiracy or solicitation to commit indecent assault.

### HACP Policy

The HACP is required to deny the application of a household if the HACP determines that any member of the household is subject to current registration requirements under any state sex offender registration.

**Denial for Life:** Applicants and/or their household members who have been convicted of the following crimes will be denied for life from participation by the HACP.

- Murder
- Rape
- Kidnapping
- Involuntary Deviate Sexual Intercourse
- Arson

### **Screening for Drug Abuse and Other Criminal Activity**

In an effort to prevent drug-related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or the right to peaceful enjoyment of the premises by other residents, the HACP will endeavor to screen applicants as thoroughly and fairly as possible. Evidence of such criminal activity includes, but is not limited to pending charges or a conviction for drug-related or violent criminal activity.

### **Use of Law Enforcement Records**

The HACP will check criminal history for all applicants who are eighteen (18) years of age or older to determine whether any member of the family has engaged in violent or drug-related criminal activity.

The HACP will check criminal history for all applicants who are eighteen (18) years of age or older to determine whether any member of the family is subject to a lifetime sex offender registration requirement.

Verification of any past activity will be done prior to final eligibility and will include a check of conviction records.

### **Screening for Suitability as a Tenant [24 CFR 982.307]**

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

### **HACP Policy**

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

The owner is responsible for screening and selection of the family to occupy the owner's unit. The HACP 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 the 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 in response to a PHA request for documentation of domestic violence, dating violence, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR 5.2007(a)(4)].

### HACP Policy

The HACP will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the initial HQS inspection or before. The HACP will not provide any additional information to the owner, such as tenancy history or criminal history.

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

#### **Evidence [24 CFR 982.553(c)]**

### HACP Policy

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

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

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

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

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

### HACP Policy

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

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that denial of assistance may have on other members of the family who were not involved in the action or failure
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.G) a victim of domestic violence, dating violence, sexual assault, or stalking, or human trafficking
- The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future
- 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 HACP will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

While a record or records of arrest will not be used as the sole basis for denial, an arrest may, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:

- Any statements made by witnesses or the applicant not included in the police report
- Whether criminal charges were filed
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in 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.

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

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

For other criminal activity, the PHA may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 982.552(c)(2)(ii)].

### **HACP 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 HACP request.

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

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

### **HACP Policy**

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

### 3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

If the family is eligible for assistance, 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 CFR 982.554 (a)]. See Chapter 16, for informal review policies and procedures.

#### HACP Policy

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

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

#### HACP Policy

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

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

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

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

The Violence ~~against~~ Against Women Act ~~of 2013~~ (VAWA) and the HUD regulation at 24 CFR 5.2005(b) prohibit the PHA from denying an applicant admission to the HCV program “on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, if the applicant otherwise qualifies for assistance or admission.”<sup>2</sup>

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

## Notification

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

### HACP Policy

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

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

~~Therefore, if the HACP makes a determination to deny assistance to an applicant family, t~~The HACP will include in its notice of denial the VAWA information described in section 16-IX.C of this plan and will request that an applicant wishing to claim protection under VAWA notify HACP within ten (10) business days.

### Documentation

#### *Victim Documentation [24 CFR 5.2007]*

### HACP Policy

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

#### *Perpetrator Documentation*

### HACP Policy

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

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



## EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

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**Person with Disabilities [24 CFR 5.403]** The term *person with disabilities* means a person who has any of the following types of conditions:

- Has a disability, as defined in 42 U.S.C. Section 423(d) (1) (A), which reads:
  - Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; *or*
  - In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:
  - (A) In General:** The term “developmental disability” means a severe, chronic disability of an individual that:
    - (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;
    - (ii) is manifested before the individual attains age 22;
    - (iii) is likely to continue indefinitely;
    - (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) Self-care, (II) Receptive and expressive language, (III) Learning, (IV) Mobility, (V) Self-direction, (VI) Capacity for independent living, Economic self-sufficiency; and
    - (v) reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.
  - (B) Infants and Young Children:** An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.
- Has a physical, mental, or emotional impairment that is expected to be of long- continued and indefinite duration; substantially impedes their ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing condition
- People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

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



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

### **Individual with Handicaps [24 CFR 8.3]**

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

- (1) Physical or mental impairment includes:
  - (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
  - (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.
- (2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- (3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (4) *Is regarded as having an impairment* means:
  - (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;
  - (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
  - (c) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

## **EXHIBIT 3-2: DETAILED OF INSTITUTIONS OF HIGHER EDUCATION [20 U.S.C. 1001 AND 1002]**

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

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

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

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

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

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

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

(2) Institutions outside the United States

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

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

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

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

- (ii) In the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel

- (i) In general. For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish an advisory panel of medical experts that shall—
  - (I) Evaluate the standards of accreditation applied to applicant foreign medical schools; and
  - (II) Determine the comparability of those standards to standards for accreditation applied to United States medical schools.
- (ii) Special rule if the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

- (C) Failure to release information. The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.
  - (D) Special rule. If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.
- (3) Limitations based on course of study or enrollment. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—
- (A) Offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471 (4)(C) of this title;
  - (B) Enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;
  - (C) Has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2-or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or
  - (D) Has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2-or 4- year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.
- (4) Limitations based on management. An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—
- (A) The institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

- (B) The institution, the institution’s owner, or the institution’s chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.
  - (5) Certification. The Secretary shall certify an institution’s qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.
  - (6) Loss of eligibility. An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.
- (b) Proprietary institution of higher education
- (1) Principal criteria. For the purpose of this section, the term “proprietary institution of higher education” means a school that—
    - (A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;
    - (B) Meets the requirements of paragraphs (1) and (2) of section 1001 (a) of this title;
    - (C) Does not meet the requirement of paragraph (4) of section 1001 (a) of this title;
    - (D) Is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;
    - (E) Has been in existence for at least 2 years; and
    - (F) Has at least 10 percent of the school’s revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.
  - (2) Additional institutions. The term “proprietary institution of higher education” also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.
- (c) Postsecondary vocational institution.
- (1) Principal criteria. For the purpose of this section, the term “postsecondary vocational institution” means a school that—
    - (A) Provides an eligible program of training to prepare students for gainful employment in a recognized occupation;
    - (B) Meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001 (a) of this title; and
    - (C) Has been in existence for at least 2 years.
  - (2) Additional institutions. The term “postsecondary vocational institution” also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001 (a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

## CHAPTER 4: APPLICATIONS, WAITING LIST AND TENANT SELECTION

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### INTRODUCTION

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

The PHA is required to adopt clear policies and procedures for accepting applications, placing families on the waiting list, and selecting families from the waiting list, and must follow these policies and procedures consistently. The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA that justify their selection. Examples of this are the selection of families for income targeting and the selection of families that qualify for targeted funding.

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

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

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

Part II: Managing the Waiting List. This part presents the policies that govern how HACP'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

#### 4-1.A. OVERVIEW

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



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

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

##### **HACP Policy**

A two (2) step process will be used to take applications. Under the two-step application process, the pre-application will be accepted by the HACP and will be utilized to place a name on the waiting list (not to determine eligibility). After the family is listed on the waiting list, an application must then be completed with the information required by the HACP to determine eligibility.

Therefore, the pre-application provides the information needed to make a preliminary assessment to determine the family's placement on the waiting list. The family will be required to complete an application and provide all of the information necessary to establish family eligibility and the level of assistance when the family is selected from the waiting list.

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

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

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

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

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

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

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



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

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

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

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

##### **HACP Policy**

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

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

##### **HACP Policy**

The HACP will send written notification of the preliminary eligibility determination within ten (10) business days of receiving a completed application.

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

Applicants will be placed on the waiting list based on information submitted by the applicant, by lottery through random drawing, federal income targeting requirements and local PHA preference(s) as defined in this Plan, See Section 4III.C.

## **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]**

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

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

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

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

#### **HACP Policy**

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

- Name and social security number of head of household
- Unit size required (number of family members)
- Amount and source of annual income
- Accessibility requirement, if any
- Date and time of application or application number
- Household type (family, elderly, and disabled)
- Admission preference, if any
- Race and ethnicity of the head of household

The HACP will maintain a single waiting list for the HCV program and may maintain site-based waiting lists for the HACP's Project-Based Voucher (PBV) program and separate waiting lists for Targeted Funding or Special Programs as identified in section 4-III. B.

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 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, PHA's 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.

#### **HACP Policy**

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

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

### Closing the Waiting List

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

#### HACP Policy

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

#### ~~CFR Requirements~~

~~The PHA must give the public notice by publication in a local newspaper of general circulation, and also by minority media and other suitable means.~~

#### ~~Fair Housing Requirements~~

~~All outreach, advertising and public notices announcing the opening or closing of a waiting list must include efforts to ensure that the information will reach those populations that are considered to be “least likely to apply” for assistance under the housing choice voucher program.~~

~~Outreach must also include efforts to reach persons with disabilities. All advertising and outreach literature must include the equal housing opportunity logo and non-discrimination in the advertising message.~~

### Reopening the Waiting List

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

#### HACP Policy

The HACP will announce the reopening of the waiting list at least five (5) business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

The HACP will give public notice by publishing the relevant information on the HACP website and otherwise in suitable media outlets such as but not limited to local newspapers of general circulation, minority media, and social media.

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

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

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

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

- Analyzing the housing market area and the populations currently being served to identify underserved populations
- Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program
- Avoiding outreach efforts that prefer or exclude people who are members of a protected class
- The PHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:
  - Submitting press releases to local newspapers, including minority newspapers
  - Developing informational materials and flyers to distribute to other agencies
  - Providing application forms to other public and private agencies that serve the low income population
  - Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities

#### **HACP Policy**

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

If there are no income-eligible families on the HACP Waiting Lists, the Housing Authority of the City of Pittsburgh will conduct outreach to low-income and extremely low-income families by collaborating with other social service providers to obtain referrals as well as publishing advertisements in at least two newspapers, one of general circulation and one of minority circulation, prior to housing applicants above the applicable income limits.

### **4-II.E. REPORTING CHANGES IN FAMILY CIRCUMSTANCES**

#### **HACP Policy**

While the family is on the waiting list, the family must immediately inform the HACP of changes in contact information, including current residence, mailing address, phone number, and email address within ten (10) business days of the change. The changes must be submitted in writing. Applicants who do not provide updated contact information will be withdrawn.

### **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 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)].

## **HACP Policy**

The waiting list will be updated at least every two (2) years to ensure that all applicants and applicant information is current and timely.

To update the waiting list, the HACP will send an update request via first class mail, or e-mail to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address that the HACP has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

The family's response must be in writing and may be delivered in person, by mail, by email, or by fax. Responses should be postmarked or received by the HACP as directed by the update letter.

If the family fails to respond within time required, the family will be removed from the waiting list without further notice.

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

If a family is removed from the waiting list for failure to respond, HACP may reinstate the family if it is determined that the lack of response was due to HACP error, or to circumstances beyond the family's control.

## **Removal from the Waiting List**

### **HACP Policy**

The HACP will remove applicants from the waiting list if they have requested that their name be removed in writing, in person or by e-mail. In such cases, no informal hearing is required.

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

If a family is removed from the waiting list because HACP has determined the family is not eligible for assistance, a notice will be sent to the family's address of record as well as to any alternate address provided on the initial application. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding HACP's decision (see Chapter 16) [24 CFR 982.201(f)].

## **PART III: SELECTION FOR HCV ASSISTANCE**

### **4-III.A. OVERVIEW**

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

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

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

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

### Special Admissions [24 CFR 982.203]

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

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

HUD may award a PHA funding for a specified category of families on the waiting list. The PHA must use this funding only to assist the families within the specified category. In order to assist families within a targeted funding category, the PHA may skip families that do not qualify within the targeted funding category. Within this category of families, the order in which such families are assisted is determined according to the policies provided in Section 4-III.C.

### HACP Policy

The HACP administers the following types of targeted funding:

- Moderate Rehabilitation
- Tenant Protection Vouchers
- HUD 811 Grant Program: The HACP has established ~~one such a~~ set-aside of ~~25~~fifty (50) vouchers for participants in the HUD 811 Grant Program operated by the ~~Allegheny County~~State Of Pennsylvania Department of Human Services (PA DHS), as follows:
  - Disabled individuals and families with disabled heads of households and/or co-heads ages 18-61 successfully referred by the Department of Human Services (DHS) will be eligible for this ~~set-aside~~set-aside. ~~The first twenty-five (25) vouchers will be set aside for age qualifying head of households and/or coheads with physical disabilities. The second twenty-five (25) will be set aside for age qualifying head of households and/or coheads with mental health issues. Only 25 households will receive tenant-based assistance under this set-aside. Once 25 households have been issued vouchers, no additional vouchers will be issued under this set-aside.~~
  - ~~Individuals and families' eligibility for this set aside must be identified by DHS. PA~~ DHS will identify priority populations for this voucher set aside and will refer eligible households to the HACP for confirmation of eligibility for ~~Housing Choice Voucher~~HCV Program-program assistance and ~~d voucher-issuance of a Housing Choice Voucher~~.
- HUD Veterans Affairs Supportive Housing (VASH)
- Family Unification Program (FUP)
- Mainstream
- Emergency Housing Vouchers
- HUD HCV Community Choice Demonstration



- Scholar House Pittsburgh Program: The HACP has established a set-aside of one hundred (100) tenant-based vouchers for full time students (head, spouse, or co-head) enrolled in a school of higher education and meeting all general HCV eligibility and income requirements.
- Scholar House Pittsburgh will identify priority populations for this voucher set-aside and will refer eligible households to the HACP for confirmation of eligibility for the HCV program assistance and voucher issuance.

## Regular HCV Funding

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

## 4-III.C. SELECTION METHOD

PHA's 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]

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

### HACP Policy

The HACP has selected specific local preferences that will be used in the assignment of vouchers. These preferences are:

1. The HACP will offer a preference to any family that has been terminated from its HCV program due to **insufficient program funding**.
2. **Involuntary Displacement** due to demolition, disposition, or transformation of public or assisted housing or other housing impacted by development or redevelopment activity funded in whole or in part by HACP;
3. Recipients and former recipients of **Homeless Assistance Service** referred by the Allegheny County Department of Human Services (DHS);
4. Employment;
5. Elderly & Disabled Preference;
6. Active Duty United States Service Member or Veteran (not VASH);
7. **Witness Protection for individuals and Families** - Otherwise eligible families engaged in a local, state or federal Witness Protection Program or other law-enforcement cooperation initiative;
8. **Veteran's Affairs Supportive Housing (VASH)** Program referrals from the local Veteran's Affairs Office);
9. **HUD Section 811 Grant Program** (referred by PA DHS) – The HACP has established a ~~one-time limited~~ set aside of fifty (50)~~twenty-five (25)~~ vouchers for participants in the HUD Section 811 Grant Program, as described under 4.III.B above.



~~9~~10. **Mainstream** (referred by DHS) – Individuals and families whom have been successfully selected via the DHS Mainstream Voucher selection criteria (non-elderly persons with disabilities transitioning out of institutionalization, homeless, or at risk of becoming homeless ) will be eligible for this preference.

~~10~~11. **Family Unification Program** (referred by DHS) – Individuals and families whom have been successfully selected via the DHS Family Unification Program (FUP) will be eligible for this preference. The preference will be awarded to (1) Families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of-home care; or the delay in the discharge of the child, or children, to the family from out-of-home care; and (2) Youth at least 18 years and not more than 24 years of age (have not reached their 25th birthday), who left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in Section 475(5) (H) of the Social Security Act, and are homeless or are at risk of becoming homeless at age 16 or older. As required by statute, an FUP voucher issued to such a youth may only be used to provide housing assistance for the youth for a maximum of 36 months.

~~11~~12. **Emergency Housing Vouchers** (referred by DHS) – These EHV's are to assist individuals and families who are experiencing homelessness; at risk of experiencing homelessness; fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; or were recently homeless and for whom providing rental assistance will prevent the family's homelessness or having a high risk of housing instability.

~~12~~13. **Community Choice Demonstration Limited Preference** – Otherwise eligible families with at least one child aged thirteen (13) or under that live in census tracts with a family poverty rate of thirty (30) percent or higher will be eligible for this preference.

~~13~~14. **Scholar House** (referred by Scholar House Pittsburgh) – Otherwise eligible families who have a head, spouse, or co-head who is a full-time student enrolled in an institution of higher learning and referred to the HACP by Scholar House Pittsburgh will be eligible for this preference.

Families qualifying for preferences #1-~~4~~3 and ~~87-10~~9 will receive priority over families qualifying for the other preferences. Families qualifying for preferences #~~32~~2, ~~4~~3 and ~~98-14~~ will be granted whether the waiting list is open or closed. Families qualifying for any preference will receive priority over families not qualifying for a preference. Details regarding the preferences are described in the pages that follow.

## 1. INSUFFICIENT FUNDING

If a HCV family has been terminated from the program due to insufficient funding, the family will be given a waiting list preference. However, if the family is terminated for any reason other than insufficient funding, namely the termination reasons described in Chapter 12, the HCV family will not be eligible for this preference. This preference also applies to PBV families terminated due to insufficient funding.

## **3.2. INVOLUNTARY DISPLACEMENT DUE TO DEMOLITION, DISPOSITION, OR TRANSFORMATION OF PUBLIC OR ASSISTED HOUSING OR OTHER HOUSING IMPACTED BY DEVELOPMENT OR REDEVELOPMENT ACTIVITY FUNDING IN WHOLE OR IN PART BY THE HACP**

Involuntarily Displaced persons are families not living in standard, permanent replacement housing. The family is or will be involuntarily displaced if she or he have or will vacate the housing unit in which he or she resides because of demolition/disposition of public housing or HOPE VI development or other public or assisted housing, or other housing transformation or revitalization activities. Individuals with this preference will come to the top of the waiting list, whether the waiting list is open or closed.

- A) Involuntarily Displaced due to demolition, disposition, or transformation of public or assisted housing or other housing impacted by development or redevelopment activity funded in whole or in part by HACP – Any applicant who is being involuntarily displaced due to the demolition, disposition, or transformation of Public Housing, assisted housing, or other housing units when the activity is funded in whole or in part by HACP. In instances where HUD has not provided replacement housing (funds) or when approvals for such funds are delayed.
- B) Disaster – Any family who is involuntarily displaced as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. In the case of a disaster, the family must provide third-party written verification from an appropriate agency or unit of government (such as FEMA) that the disaster resulted in the permanent displacement of the family due to the extensive damage to their dwelling. The PHA shall reserve the right to determine, in its sole discretion, the acceptability of such third-party verification.

In instances where the PHA has applied for and HUD has awarded replacement or relocation housing vouchers (funds) this preference will not apply, as vouchers will be authorized under Section 4.III.B. for Special Admission.

## **2.3. PREFERENCE FOR RECIPIENTS AND FORMER RECIPIENTS OF HOMELESS ASSISTANCE SERVICE REFERRED BY THE ALLEGHENY COUNTY DEPARTMENT OF HUMAN SERVICES**

Individuals and families that have successfully completed Homeless Assistance programs through the Allegheny County Department of Human Services, Bureau of Homeless Services will be eligible for this preference. Such programs include Permanent Supportive Housing, Transitional Housing, Bridge Housing, Rapid Re-housing and Emergency Shelters.

The Administrator of the Bureau of Homeless Services at the Allegheny County Department of Human Services must verify individuals and families' eligibility for this preference. That eligibility determination will be based upon the following criteria:

- A) Successful completion of a Permanent Supportive Housing program that is determined by the lack of need for the supportive services, but an on-going need for rental assistance.

- B) Successful completion of a Transitional, Rapid Re-housing, or Bridge Housing program, including compliance with all required program guidelines and agreements. Consumers who have been involuntarily terminated, will not be eligible for the set-aside vouchers.
- C) Families with minor children, who have not completed Transitional Bridge or Emergency Housing Programs, may also be eligible if the Administrator determines that a lack of permanent affordable housing is contributing to the family's on-going housing instability. This instability will be determined by at least three homeless episodes within the last three years and a referral to the Allegheny County Office of Children, Youth and Families within the last year.

Individuals and families referred by the Allegheny County Department of Human Services and verified as being eligible for this preference will receive the preference whether the waiting list is open or closed.

#### 4. EMPLOYMENT/~~ELDERLY & DISABLED PREFERENCE~~

##### A) Employment Head of Household

An application in which the head of household, spouse or co-head of household is considered working in a long-term full-time or part-time capacity:

- i. *Any head of household, spouse or co-head of household legally employed by an employer in a full-time capacity*

The head of household, spouse or co-head of household must work for wages, commissions or other consideration of value and have been so gainfully employed after the date of application. The head of household, spouse or co-head of household must demonstrate full-time employment for, at least, six (6) consecutive months of the preceding twelve (12) months prior to the date of the pre-application or the date of placement except for mitigating circumstances, such as, lay-off, business closure, or regular seasonal employment, such as construction or teaching. Full-time employment must be an average of thirty-two (32) hours per week. It must be apparent that the full-time employment is not of a temporary nature, and the head of household, spouse or co-head of household must anticipate such continuous employment prior to the date of the application. Self-employed individuals would not qualify for this Local Preference unless the head of the household are able to demonstrate one full year of self-employment prior the date of application; or

- ii. *Long-term Part-time Employment*

Any head of household, spouse, spouse or co-head of household legally employed in a long-term part-time capacity. The head of household, spouse or co-head of household must work for wages, commissions or other consideration of value and have been so gainfully employed for, at lease, six (6) consecutive months prior to the date application (if admitted within sixty (60) days of the pre-application) or the date of placement (in all other cases) except for mitigating circumstances, such as, lay-off business closure, or regular seasonal employment, such as construction or teaching. Part-time employment must be an average of twenty (20) hours per week. It must be apparent that the part-time employment is of a continuous, as opposed to a temporary nature, and the head of household, spouse or co-head of household must anticipate such continuous employment after the date of application. Self-employed individuals would not qualify for this preference unless the head of the household, spouse or co-head of household were able to demonstrate on full year of self-employment prior to the date of application.

iii. *Graduate of HACP Career Development Program*

Any head of household, any spouse, co-head, or other adult family member seeking to establish an independent household, who has completed the HACP Career Development Program and secured employment and maintained that employment for six (6) months will be eligible for a preference equal to the long-term, full time employment preference.

**~~B)5. Elderly/Disabled~~ ELDERLY/DISABLED**

An elderly household is defined as a household where the head, spouse, or co-head is age 62 or older.

A disabled household is defined as a household where the head, spouse, or co-head has a disability as defined in 42 U.S.C. Section 423; or the head, spouse, or co-head 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;
- ☐ Is of such a nature that ability to live independently could be improved by more suitable housing conditions;
- ☐ Is determined to have a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8)).

The disabled person definition does not exclude persons who have the disease of AIDS or any conditions arising from the etiologic agent for the AIDS virus.

The disabled person definition does not include a person whose disability is based solely on any drug or alcohol dependence (for eligibility purposes).

**~~5.1. VETERAN'S AFFAIRS SUPPORTIVE HOUSING (HUD VASH) PROGRAM~~**

~~The Authority shall process direct referrals of homeless veterans and their families from the Veterans Affairs Medical Center (VAMC) if it has open HUD VASH vouchers. By agreeing to administer the HUD VASH program, the HACP is relinquishing its authority to determine the eligibility of families in accordance with regular HCV program rules and PHA policies with the exceptions of income eligibility and lifetime sex offender status. Eligibility determination and veteran selection is done by the VAMC. The HACP is not authorized to maintain a waiting list or apply local preferences for the HUD VASH program. 24 CFR 982.202, 982.204, 982.207 and 983.251 relating to applicant selection from the waiting list and local preferences are waived.~~

**6. PREFERENCE FOR ACTIVE DUTY UNITED STATES SERVICE MEMBER OR VETERAN**

The Authority shall provide a preference for an active duty United States service member or veteran. The preference shall extend to:

- A) The household of which the service member or veteran is a member;
- B) The surviving household members of a deceased service member or veteran who died of service-connected causes. Veteran status shall be determined as defined by federal statute at 38 USC 101(2) and 38 CFR 3.1(d).

C) Said person cannot be a HUD-VASH program participant.

## **7. PREFERENCE FOR WITNESS PROTECTION INDIVIDUALS AND FAMILIES**

Individuals and families who are otherwise eligible, are currently engaged in a local, state or federal witness protection program or other cooperative law enforcement activity and are referred through that same law enforcement agency to the HACP Public Safety Department will be eligible for this preference. The Director of the HACP Public Safety Department or their designee will verify individuals and families' eligibility for this preference. Individuals and families referred by the HACP Public Safety Department and verified as being eligible for this preference will receive the preference and will come to the top of the waiting list whether the waiting list is open or closed.

The above listed preferences are not cumulative. Applicants who do not qualify for categories for any preference will be placed on the Waiting List prioritized by lottery through random drawing.

## **8. VETERAN'S AFFAIRS SUPPORTIVE HOUSING (HUD-VASH) PROGRAM**

The Authority shall process direct referrals of homeless veterans and their families from the Veterans Affairs Medical Center (VAMC) if it has open HUD-VASH vouchers. By agreeing to administer the HUD-VASH program, the HACP is relinquishing its authority to determine the eligibility of families in accordance with regular HCV program rules and PHA policies with the exceptions of income eligibility and lifetime sex offender status. Eligibility determination and veteran selection is done by the VAMC. The HACP is not authorized to maintain a waiting list or apply local preferences for the HUD-VASH program. 24 CFR 982.202, 982.204, 982.207 and 983.251 relating to applicant selection from the waiting list and local preferences are waived.

## **8.9. PREFERENCE FOR HUD 811 GRANT PROGRAM**

HACP has established a one-time limited set aside of fifty (50) ~~25~~ vouchers for participants in the HUD Section 811 Grant Program who are referred by the Allegheny County Department of Human Services, as described under 4.III. B. above.

## **9.10. PREFERENCE FOR MAINSTREAM VOUCHER PROGRAM**

Individuals and families who have been successfully selected via the DHS Mainstream Voucher selection criteria will be eligible for this preference. Individuals' and families' eligibility for this preference must be verified by the DHS. That eligibility determination will be based upon the DHS vetting process referring non-elderly persons with disabilities transitioning out of institutionalization, homeless, or at risk of becoming homeless. Individuals and families referred by DHS and verified as being eligible for this preference will receive the preference whether the waiting list is open or closed.

## **10.11. PREFERENCE FOR FAMILY UNIFICATION PROGRAM (FUP)**

Individuals and families who have been successfully selected via the DHS Family Unification Program (FUP) Voucher selection criteria will be eligible for this preference. Individuals and families' eligibility for this preference must be verified by the DHS.

That eligibility determination will be based upon the DHS vetting process referring: 1. Families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of-home care; or the delay in the discharge of the child, or children, to the family from out-of-home care; and 2. Youth at least 18 years and not more than 24 years of age (have not reached their 25th birthday), who left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in Section 475(5) (H) of the Social Security Act, and are homeless or are at risk of becoming homeless at age 16 or older. As required by statute, a FUP voucher issued to such youth may only be used to provide housing assistance for the youth for a maximum of 36 months. Individuals and families referred by DHS and verified as eligible for this preference will receive the preference whether the waiting list is open or closed.

#### **11.12. PREFERENCE FOR EMERGENCY HOUSING VOUCHER (EHV) PROGRAM**

PHAs must accept referrals for EHV directly from the Continuum of Care (CoC) Coordinated Entry (CE) System. Accepting direct referrals from the CE System will help ensure families are able to get assistance quickly and eliminate the administrative burden on the PHA regarding the determination as to whether the family meets the definition of a qualifying individual or family for EHV assistance. CoC partners may also support applicants through the application process and attend meetings with applicants and PHAs to aid individuals and families through the admissions process. Direct referrals for EHV are not added to the PHA's regular HCV waiting list.

In general, EHV families are issued EHV as the result of either:

- (1) the direct referral process from the CoC CE System and/or other partnering organizations, or
- (2) a situation where the PHA makes an EHV available in order to facilitate an emergency transfer in accordance with the Violence Against Women Act (VAWA) as outlined in the PHA's Emergency Transfer Plan. (PHAs are strongly encouraged to utilize EHV as a resource to effectuate emergency transfers for a victim of domestic violence, dating violence, sexual assault, or stalking, as part of their Violence Against Women Act (VAWA) Emergency Transfer Plan.)

The PHA must also take direct referrals from outside the Continuum of Care (CoC) CE system if:

- (1) the CE system does not have a sufficient number of eligible families to refer to the PHA, or
- (2) the CE system does not identify families that may be eligible for EHV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking.

The HACP has established a waiting list preference for EHV in accordance with PIH Notice 2021-15.

#### **12.13. LIMITED PREFERENCE FOR COMMUNITY CHOICE DEMONSTRATION**

An otherwise eligible family would qualify for this limited preference if they live in a census tract with a thirty (30) percent or more family poverty rate, and if the family has at least one child thirteen (13) or under at the time of waiting list selection. The HACP will use its current verification processes for age and family relationship status. The HACP will identify census tracts with a thirty (30) percent or more family poverty rate in its jurisdiction and use this in implementation.



For the Community Choice Demonstration vouchers utilized, the HACP has selected to update only a small portion of its waiting list by contacting applicants appearing at the top of the waiting list. The HACP will look at applicants on its waiting list in order based on the original method of time and date or lottery along with the applicant's current preference points. The HACP would then contact a specific number of the highest-ranking applicants and ask them to update their address and ages of family members. If the applicant returns the information and qualifies for the preference, the HACP would give the family the additional, limited preference. If the applicant does not return the information, the family must maintain its spot on the waiting list.

#### **14. SCHOLAR HOUSE**

The HACP is partnering with Scholar House Pittsburgh to provide a waiting list preference for income eligible households whose head, spouse, or co-head is enrolled in a school of education full time. The goal of this partnership is self-sufficiency including eventual homeownership after graduating from the program.

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

HUD requires that extremely low-income (ELI) families make up at least seventy-five (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 thirty (30) percent of the area median income. 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)].

#### **HACP Policy**

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

#### **Order of Selection**

The PHA system of preferences may select families based on local preferences according to the date and time of application or by a random selection process (lottery) [24 CFR 982.207(c)]. If a PHA does not have enough funding to assist the family at the top of the waiting list, it is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

#### **HACP Policy**

The HACP will assign placement on the Waiting List by random drawing. Preferences will be applied when selecting applicants from the Waiting List. Families will be selected from the waiting list based on the targeted funding or selection preference(s) for which they qualify, and in accordance with the HACP'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 HACP. ~~When selecting families from the waiting list the HACP is required to use targeted funding to assist only those families who meet the specified criteria. Within each targeted funding category, families will be selected based on the selection preference(s) for which they qualify.~~



Documentation will be maintained by the HACP as to whether families on the list qualify for and are interested in targeted funding. If a higher placed family on the waiting list is not qualified or not interested in targeted funding, there will be a notation maintained so that the HACP does not have to ask higher placed families each time targeted selections are made.

When selecting families from the waiting list the HACP is required to assist only those families who meet the specified criteria, and the HACP is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list [24 CFR 982.204(d) and (e)].

#### **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)].

##### **HACP Policy**

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

- Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview;
- Who is required to attend the interview;
- All documents that must be provided at the interview, including information about what constitutes acceptable documentation.

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

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

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

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA [Notice PIH 2018-24].

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

##### **HACP Policy**

Currently, the HACP does not formally schedule face-to-face interviews or meetings. When screening applicants, document request letters are mailed or emailed to the applicant along with an application. The applicant may return their documentation by mail, email, fax, drop box, or in person in the HACP's One Stop Shop.

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

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

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

Pending disclosure and documentation of social security numbers, the HACP will allow the family to retain its place on the waiting list for thirty (30) days. If not all household members have disclosed their SSNs at the next time the HACP is issuing vouchers, the HACP will issue a voucher to the next eligible applicant family on the waiting list.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, the HACP will proceed with the interview applicant eligibility determination. If the HACP determines the family is not eligible for the preference, the interview applicant eligibility determination will not proceed, and the family will be placed back on the waiting list according to their updated preference ranking and lottery number.

The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, completing required forms, providing required signatures, and submitting required documentation. If any materials are missing, the HACP 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 ten (10) business days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (See Chapter 3).

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

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

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

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

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

##### **HACP Policy**

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

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

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

#### **4-III.G. FINAL ELIGIBILITY DETERMINATION**

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

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

The PHA must promptly notify any family determined to be ineligible for admission of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination (see Chapter 16).

## CHAPTER 5: BRIEFINGS AND VOUCHER ISSUANCE

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### INTRODUCTION

This chapter explains the briefing and voucher issuance process. When a family is determined to be eligible for the Housing Choice Voucher (HCV) program, the PHA must ensure that the family fully understands the way the program operates and the family's obligations under the program. This is accomplished through both an oral briefing and provision of a briefing packet containing the HUD-required documents and other information the family needs to know in order to lease a unit under the program. Once the family is fully informed of the program's requirements, the PHA issues the family a voucher. The voucher includes the unit size for which the family qualifies based on the PHA's subsidy standards, as well as the issue and expiration date of the voucher. The voucher is the document that authorizes the family to begin its search for a unit, and limits the amount of time the family has to successfully locate an acceptable unit.

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

Part I: Briefings and Family Obligations. This part details the program's requirements for briefing families orally, and for providing written materials describing the program and

its requirements. It includes a particular focus on the family's obligations under the program.

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

### PART I: BRIEFINGS AND FAMILY OBLIGATIONS

#### 5-I.A. OVERVIEW

HUD regulations require the PHA to conduct mandatory briefings for applicant families who qualify for a voucher. The briefing provides a broad description of owner and family responsibilities, explains the PHA's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program.

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

##### Notification of Briefing

Prior to issuance of a voucher, ~~The~~ the PHA must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed in individual face-to-face meetings, through group briefing sessions, or via remote briefing sessions.

## **HACP Policy**

The HACP briefing process is fully automated. Applicant families are emailed instructions to watch the briefing video, answer questions about the video to confirm viewing, and sign any updated forms electronically. Once all paperwork is received, the HACP will then issue a voucher and send it electronically for signature.

If an applicant does not have an email address or prefers that the briefing paperwork be mailed, the HACP will send the materials via first class mail. If the post office returns the paperwork with no forwarding address, the applicant will be denied and their name will not be placed back on the waiting list. If the briefing paperwork is returned by the post office with a forwarding address, the paperwork will be resent to the address indicated. However, the briefing process must be executed within thirty (30) calendar days from the date that the briefing instructions email/letter was sent.

## **In-Person Briefings**

At the briefing, the PHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973) and ensure that the briefing site is accessible to individuals with disabilities. For a more thorough discussion of accessibility requirements, refer to Chapter 2.

## **HACP Policy**

The HACP generally does not conduct in-person briefings unless the family requests one in writing. The in-person briefing generally is individual (specific to the family requesting it).

Generally, for requested in-person briefings, the head of household is required to attend the briefing. If the head of household is unable to attend, the HACP may approve another adult family member to attend the briefing.

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

## **Attendance**

## **HACP Policy**

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

## **Remote Briefings [Notice PIH 2020-32]**

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

## **HACP Policy**

The HACP has the sole discretion to require that briefings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster. The HACP will conduct all briefings remotely unless the applicant requests a face-to-face briefing as a reasonable accommodation for a person with a disability. The HACP will consider other reasonable requests for an in-person briefing on a case-by-case basis in accordance with the HACP's current physical distancing policies.

## **Accessibility Requirements for Persons with Disabilities and LEP Individuals**

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

If no method of conducting a remote briefing is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote briefing, and the PHA should consider whether postponing the remote briefing to a later date is appropriate or whether there is a suitable alternative.

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

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

## **Conducting Remote Briefings**

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

## **HACP Policy**

At least ten (10) business days prior to scheduling the remote briefing, the HACP will provide written notification via first class mail and/or email to families participating in the briefing to advise of technological requirements and to request the family notify the HACP of any known barriers. If any family does not respond within five (5) business days, or if the written notification is returned by the post office or the email is rejected, the HACP will contact the family by telephone to identify potential technological barriers and to determine which technology resources are accessible to the family. The HACP will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person briefing or have a one-on-one briefing over the phone, as appropriate.

The HACP will conduct remote briefings by requiring all adults of the applicant family to view a briefing video, acknowledge that they viewed and understood the video, and return any applicable forms sent by the HACP staff. If applicants are unable to adequately access the video link, the briefing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in, the remote briefing will be postponed, and an in-person alternative or one-on-one briefing over the phone will be provided.

The HACP will provide the briefing video link and an electronic copy of the briefing packet via email at least five (5) business days before the briefing. The HACP will provide a paper copy of the briefing packet upon family request, and may reschedule the briefing to allow adequate time for the family to receive the physical briefing packet.



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

The HACP will ensure that families who participate in remote briefings have the opportunity to ask questions as part of the briefing via email or phone.

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

### **Oral Briefing [24 CFR 982.301(a)]**

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the PHA's jurisdiction;
- For families eligible under portability, an explanation of portability. The PHA 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.

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

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

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

- The term of the voucher, voucher suspensions, and the PHA's policies on any extensions ~~or suspensions~~ of the term. If the PHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family, how the PHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the PHA determines the maximum allowable rent for an assisted unit.
- ~~Where the family may lease a unit~~ and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance. ~~For a family that qualifies to lease a unit outside the PHA 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 PHA policy on providing information about families to prospective owners.

- The PHA subsidy standards including when and how exceptions are made.
- ~~Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides (e.g., HUD brochure entitled “A Good Place to Live”). The HUD brochure on how to select a unit.~~
- The HUD pamphlet on lead-based paint entitled “Protect Your Family from Lead in Your Home.”
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form, including information on how to complete the form and file a fair housing complaint.
- A list of landlords ~~or other parties known to the PHA who may be~~ willing to lease to assisted family or other resources (e.g., newspapers, organizations, online search tools) known to the PHA that may assist the family in locating a unit. PHAs must ensure that the list of landlords or other resources covers areas ~~ies 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 PHA.
- The family obligations under the program, including any obligations of a welfare- to-work family, and any obligations of other special programs if the family is participating in one of those programs.
- The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.
- PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.
- An explanation of the advantages of moving to an area that does not have a high concentration of low-income families.

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

- ~~Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction~~
- ~~Information about the characteristics of these areas including job opportunities, schools, transportation, and other services~~
- ~~An explanation of how portability works, including a list of portability contact persons for neighboring PHAs with names, addresses, and telephone numbers~~

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

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

### **HACP Policy**

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

- Information on how to fill out and file a housing discrimination complaint form
- The form HUD-5380 Notice of Occupancy Rights form and the form HUD-5382 Domestic Violence Certification form, which contains information on VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking (see section 16-IX.C)

- “Is Fraud Worth It?” (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse
- “What You Should Know about EIV,” a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12

## 5-I.C. FAMILY OBLIGATIONS

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

### Time Frames for Reporting Changes Required by Family Obligations

#### HACP Policy

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

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

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

The family obligations of the voucher are listed as follow:

- Supplying required information
  - The family must supply any information that 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.
- HQS breach caused by family. The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

#### HACP Policy

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

- Allowing PHA inspection. 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.

- Violation of lease. The family may not commit any serious or repeated violation of the lease. Incident(s) of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violation by the victim, or threatened victim of the domestic violence, dating violence, sexual assault, or stalking, or as good cause to terminate the tenancy, occupancy rights, or assistance of the victim.

### HACP Policy

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

- Family notice of move or lease termination. The family must notify the PHA and the owner before the family moves out of the unit, or terminates the lease on notice to the owner.

### HACP Policy

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

- Owner eviction notice. The family must promptly give the PHA a copy of any owner eviction notice.
- Use and occupancy of the unit
  - 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 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. No other person may reside in the unit.

### HACP Policy

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

- The family must promptly notify the PHA if any family member no longer resides in the unit.
- If the PHA has given approval, a foster child or live-in-aide may reside in the unit. The PHA has the discretion to adopt reasonable policies concerning residence by a foster child or a live-in-aide, and defining 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 \(section II.B.\).](#)

- Members of the household may engage in legal profitmaking activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family.
- The family must not sublease or let the unit.

### HACP 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 not assign the lease or transfer the unit.
- Absence from the unit. The family must supply any information or certification requested by the PHA to verify that the family is living in the unit, or relating to family absence from the unit, including any PHA-requested information or certification on the purposes of family absences. The family must cooperate with the PHA for this purpose. The family must promptly notify the PHA of absence from the unit.

### HACP 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 thirty (30) calendar days. Written notice must be provided to HACP at the start of the extended absence.

- Interest in unit. The family must not own or have any interest in the unit.
- Fraud and other program violations. Family members must not commit fraud, bribery or any other corrupt or criminal activity in connection with the programs. (See Chapter 14, Program Integrity for additional information.)
- Crime by household members. Family members may 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. Criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of the tenant's household, or any guest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights, or assistance of the victim, if the tenant or an affiliated individual of the tenant, as defined in 24 CFR 5.2003, is the victim. See Chapter 12 for HUD and PHA policies related to drug-related and violent criminal activity.
- Alcohol abuse by household members. The members of the household must not abuse alcohol in a way 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 a discussion of HUD and PHA policies related to alcohol abuse.
- Other housing assistance. An assisted family, or members of the family, may not receive ~~Section 8 tenant-based~~HCV program assistance while receiving another housing subsidy, for the same unit or for a different unit, under any other duplicative (as determined by HUD or in accordance with HUD requirements) 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 or suspensions of the voucher term.

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

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

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

- The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding.
- The subsidy standards must be consistent with space requirements under the housing quality standards.
- The subsidy standards must be applied consistently for all families of like size and composition.
- A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size.
- A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
- Any live-in-aide (approved by the PHA to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size.
- Unless a live-in-aide resides with the family, the family unit size for any family consisting of a single person must be either zero or one-bedroom unit, as determined under the PHA 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 relation of family members or other personal circumstances. (For a single person other than a disabled or elderly person or remaining family member, such PHA exception may not override the limitation in the previous bullet.)~~

#### HACP Policy

The HACP has established the following subsidy standards in regards to family unit (voucher) size:

- Voucher size will be assigned so that a minimum of one (1) person will occupy each bedroom and no more than two (2) will be required to share a bedroom.
- The HACP will assign one (1) bedroom for each two (2) persons within the household, except in the following circumstances:



- Persons of the opposite sex (other than spouses, and children under age 3) will be allocated separate bedrooms.
  - Children of the same sex will share a bedroom under age 18. Children of opposite sex share a bedroom until one (1) of the children reaches age three (3).
  - Live-in aides will be allocated a separate bedroom.
  - Single person families will be allocated one bedroom.
- An unborn child is not considered when determining voucher size with exception to a family that consists of a pregnant woman (with no other persons) must be treated as a two-person family.
  - Parents/Guardians must show proof they have a physical custody order or some other supporting documentation of custody/residency of a child for whom they are requesting a bedroom or the parent/guardian must show proof that the children are expected to be physically in the home overnight for more than 185 days within a twelve (12) month period. All documentation is subject to HCV Department approval. Other types of documentation can include but are not limited to:
    - a) School records
    - b) Notarized affidavit from all legal guardians mutually agreeing to custody and primary residence of the child
  - Foster children expected to remain in the household for an extended duration of time will be included in determining eligible voucher size. The foster children must be expected to be physically in the home overnight for more than 185 days within a twelve (12) month period.
  - Bedrooms will be authorized to families involved with Children, Youth and Family Services, who have a valid court order stating that the children will be returned within ninety (90) days, and the PHA has verified the court order and circumstances of the return of the children. This criterion applies only to families that are in the applicant status (not current voucher holders).

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

<b>BEDROOM SIZE</b>	<b>MINIMUM NUMBER OF PERSONS</b>	<b>MAXIMUM NUMBER OF PERSONS</b>
0	1	2
1	1	2
2	2	4
3	3	6
4	4	8
5	5	10

## 5-II.C. EXCEPTIONS TO SUBSIDY STANDARDS

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

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

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

### HACP Policy

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

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

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

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

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

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

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

## HACP 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].

## HACP Policy

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

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

## **5-II.E. VOUCHER TERM, EXTENSIONS, AND SUSPENSIONS**

### **Voucher Term [24 CFR 982.303]**

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

## HACP Policy

The initial voucher term for a family will be one hundred-twenty (120) calendar days.

The family must submit a Request for Tenancy Approval within the term of the voucher.

### **Initial Term—Incoming Portables**

~~The term of the receiving PHA's voucher may not expire before thirty (30) calendar days from the expiration of the initial PHA's voucher. If the initial PHA extends the term of its voucher, the receiving PHA's voucher may not expire before thirty (30) days from the new expiration date of the initial PHA's voucher. Receiving PHAs may extend the voucher beyond these additional thirty (30) days. Any extensions of search time provided by the receiving PHA are only valid for the family's search in the receiving PHA's jurisdiction. The receiving PHA must notify the initial PHA of any extensions of the voucher term [24 CFR 982.355(c)(14)].~~

## HACP Policy

~~The HACP will issue all incoming portables a voucher with an expiration date that matches that given by the initial housing authority plus the required thirty (30) day extension. The HACP will not grant any extensions to this term with the exception of any applicable suspension (tolling) time as required by 24 CFR 982.355 (c)(15) and PIH Notice 2016-09(5).~~

~~The incoming client will have to seek an extension from the initial housing authority. However, as a reasonable accommodation for disabled clients, the HACP will coordinate this contact with the initial authority if the client so requests.~~

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

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

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

The family must be notified in writing of the PHA's decision to approve or deny an extension. The PHA's decision to deny a request for an extension of the voucher term is not subject to informal review [24 CFR 982.554(c)(4)].

## **HACP Policy**

Voucher extensions will be given in the following manner:

**Participants:** The participant family will be eligible for voucher extensions in increments of thirty (30) days up until they are six (6) months zero (0) HAP.

**Applicants:** The applicant family ~~Generally, after the initial voucher term expires, the HCV family~~ will be eligible for one (1) sixty (60) day extension. Once the sixty (60) day extension expires, the voucher will be terminated and the family will need to reapply in accordance with the applicant withdrawal procedures outlined in Chapter 3, Part III, or the participant termination procedures outlined in Chapter 12, whichever is applicable.

~~If a family is requesting more time after the sixty (60) day extension, HCV Management, the Chief Operations Officer, and/or the Executive Director may extend the voucher term again for a second sixty (60) day extension at their discretion, only if verifiable circumstances outside of the family's control is preventing the HCV family from searching for a unit. Circumstances outside the family's control could include, however is not limited to, confinement to a nursing home, extended hospitalization, VAWA victims, and displacement due to fire or other natural disaster.~~

If the HACP determines that an applicant or participant needs additional search time beyond the initial term plus any extensions mentioned in the preceding paragraphs due to a disability-related need, the HCV family may request an additional extension through the Reasonable Accommodations process. All requests for an additional extension due to a disability and/or medical need must include the reason(s) an additional extension is necessary with any applicable supporting documentation. The request must be made in writing using the HCV Reasonable Accommodation form and submitted to the HACP Disability Compliance Office prior to the expiration date of the voucher (or extended term of the voucher). The HACP will decide whether to approve or deny an a Reasonable Accommodation extension request within ~~ten-thirty (4030)~~ business days of the date the request is received and will immediately provide the family written notice of its decision.

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

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

## **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 because it was unable to locate a unit before the voucher expired [HCV GB p. 8-13].

## HACP Policy

If an applicant family's voucher term or extension expires before the family has submitted a Request for Tenancy Approval (RFTA), the HACP will require the family to reapply for assistance. If a RFTA that was submitted prior to the expiration date of the voucher is subsequently disapproved by HACP (after the voucher term has expired), the family will be required to reapply for assistance.

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

If a participant family's voucher term or extension expires before the family has submitted a RFTA, the participant family will receive a termination notice in accordance with the termination policies described in Chapter 12. The participant family will be eligible for a grievance hearing if requested by the deadline stated on the termination notice.

## CHAPTER 6: INCOME AND SUBSIDY DETERMINATIONS [24 CFR PART 5, SUBPARTS E AND F; 24 CFR 982]

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### INTRODUCTION

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 which are excluded from the family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.

Part II: Assets. HUD regulations specify the types of assets which are excluded from a family's annual income. These requirements and PHA policies for calculating income from assets are found in Part II.

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

Part IV: Calculating Family Share and 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.~~ HUD regulations specify the sources of income to include and exclude to arrive at a family's annual income. These requirements and PHA policies for calculating annual income are found in Part I.

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

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



## PART I: ANNUAL INCOME

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

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

#### 5.609 Annual income.

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

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

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

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

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

Annual income includes:

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

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

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

Annual income also includes all actual anticipated income from assets (provided the income is not otherwise excluded) even if the asset itself is excluded from net family assets [Notice PIH 2023-27]. 24 CFR 5.603(b)(1) describes HUD regulations establish policies for treating specific types of income and assets. The full texts of those portions of the regulations are provided in exhibits at the end of this chapter as follows:

- Annual Income Full Definition (Exhibit 6-1)
- Treatment of Family Assets (Exhibit 6-2)
- The Effect of Welfare Benefit Reduction (Exhibit 6-3)
- Sections 6-I.B and 6-I.C discuss general requirements and methods for calculating annual income. The rest of this section describes how each source of income is treated for the purposes of determining annual income. Verification requirements for annual income are discussed in Chapter 7.

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

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

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources <u>(both earned and unearned)</u> is excluded [24 CFR 5.609( <del>eb</del> )( <del>58</del> )].
Foster child or foster adult	Income from all sources <u>(both earned and unearned)</u> is excluded [24 CFR 5.609( <del>eb</del> )( <del>28</del> )].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included [24 CFR 5.609(b)(3)].
<del>Children under 18 years of age</del> Minors	<del>Employment income is excluded [24 CFR 5.609(e)(1)].</del> <u>Earned income of children under 18 years of age is excluded [24 CFR 5.609(b)(3)].</u>  All other sources of income, except those specifically excluded by the regulations, are included [24 CFR 5.609(a)].

Full-time students 18 years of age or older (not head, spouse, or co-head)	<p><del>Employment income above \$480/year</del> <u>Earned income in excess of the dependent deduction</u> is excluded [24 CFR 5.609(<del>eb</del>)(<del>1114</del>)].</p> <p>All other sources of <u>unearned</u> income, except those specifically excluded by the regulations, are included.</p>
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## 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].~~

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

### HACP 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 ~~sixty-one hundred eighty~~ (60180) 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 ~~sixty-one hundred eighty~~ (60180) consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

### *Absent Students*

### HACP 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 HACP indicating that the student has established a separate household or the family declares that the student has established a separate household.

### *Absences Due to Placement in Foster Care*

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

### HACP Policy

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

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

### HACP Policy

An employed head, spouse, or co-head absent from the unit more than ~~sixty-one hundred eighty~~ (60180) consecutive days due to employment will continue to be considered a family member.

## Family Members Permanently Confined for Medical Reasons

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

## HACP Policy

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

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

## **Joint Custody of Dependents**

### HACP 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 fifty (50) percent or more of the time.

When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the HACP 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**

### HACP Policy

The approval of a caretaker is at the owner and the HACP's discretion and subject to the owner and the HACP's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, the HACP will take the following actions:

- (1) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made.
- (2) If a caretaker has assumed responsibility for a child without the involvement of a responsible agency or formal assignment of custody or legal guardianship, the caretaker will be treated as a visitor for ninety (90) days. After the ninety (90) days has elapsed, the caretaker will be considered a family member unless information is provided that would confirm that the caretaker's role is temporary. In such cases the HACP will extend the caretaker's status as an eligible visitor.
- (3) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker.
- (4) During any period that a caretaker is considered a visitor, the income of the caretaker is not counted in annual income and the caretaker does not qualify the family for any deductions from income.

## **6-I.C. ANTICIPATING-CALCULATING ANNUAL INCOME**

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

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

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

### HACP Policy

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

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

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the HACP annualized projected income.

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

### **Basis of Annual Income Projection**

~~The PHA generally will use current circumstances to determine anticipated income for the coming twelve (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 CFR 5.609(d)]~~
- ~~• The PHA believes that past income is the best available indicator of expected future income [24 CFR 5.609(d)]~~

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

### HACP Policy

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

~~The HACP 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 HACP determines additional information is needed.

In such cases, the HACP 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 HACP annualized projected income.

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

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

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

If the PHACP verifies an upcoming increase or decrease in income, annual income will be ~~calculated~~ projected by applying each income amount to the appropriate part of the twelve (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 HACP would calculate annual income as follows:  $(\$8/\text{hour} \times 40 \text{ hours} \times 7 \text{ weeks}) + (\$8.25 \times 40 \text{ hours} \times 45 \text{ weeks}) = \$17,090$ .

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 HACP will calculate annual income using current circumstances ~~and then require an interim reexamination when the change actually occurs~~ should the change in income require the HACP to conduct an interim reexamination, conduct an interim reexamination in accordance with HACP policy in Chapter 11. 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 sixty (60) days of the reexamination interview date.~~

### ***Projecting Seasonal Income***

In some occupations, it is normal for people to work less than twelve (12) months per year. For example: school employees, agricultural workers, or construction trades may typically work for fewer months, depending on local conditions. HUD's HCV Guidebook describes two acceptable calculation methods:

- ~~Method 1: Annualize current income, and conduct an interim reexamination when the income changes.~~
- ~~Method 2: Calculate the actual anticipated income from all known sources for the entire year. This means there will be no interim reexamination when the income changes as already anticipated. However, to use method 2, a history of the individual's income from past years is needed. This method cannot be used when the future income source is "unknown" or "none."~~



### **HACP Policy:**

~~The HACP will use Method 2 when calculating income for seasonal employment, unless the future income source is “unknown” or “none.” In the case where the future income source is “unknown” or “none,” the HACP will use Method 1. If the family continuously fails to report changes in income under Method 1, the HACP may choose to implement Method 2 for all future reexaminations, if enough past income information is available. The family will be responsible for any overpaid subsidy as a result of late reporting under Method 1 and may be offered a repayment agreement in accordance with the policies in Chapter 16. Residents with a history of employment whose regular reexamination takes place at a time when they are not employed must have their income calculated based on their past anticipated income. (3) Maximum 2-year disallowance.~~

### **The Use of EIV to Project 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. In accordance with 24 CFR 982.516(a)(2), the PHA must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third party verification was not available: (i) reported family annual income; (ii) the value of assets; (iii) expenses related to deductions from annual income; and (iv) other factors that affect the determination of adjusted income. The only exception is for Social Security benefit information in EIV, if the tenant agrees with the EIV-reported benefit information.~~

### **Calculating Annual Income at Annual Reexamination [24 CFR 5.609(c)(2); Notice PIH 2023-27]**

~~At annual reexamination, PHAs must first determine the family’s income for the previous twelve (12) month period and use this amount as the family income for annual reexaminations; however, adjustments to reflect current income must be made. Any change of income since the family’s last annual reexamination, including those that did not meet the threshold to process an interim reexamination of family income in accordance with PHA policies in Chapter 9 and HUD regulations, must be considered. If, however, there have been no changes to income, then the amount of income calculated for the previous twelve (12) month period is the amount that will be used to determine the family’s rental assistance. Income from assets is always anticipated, irrespective of the income examination type. Policies related to conducting annual reexaminations are located in Chapter 11.~~

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

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

#### **Wages and Related Compensation**

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

### **HACP Policy**

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

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

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

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

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

A **seasonal worker** is defined as an individual who is hired into a short-term position (e.g., for which the customary employment period for the position is six (6) months or fewer), and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the particular employer or industry [24 CFR 5.603(b)]. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver [Notice PIH 2023-27].

### **HACP Policy**

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

For persons who regularly receive bonuses or commissions, the HACP will verify and then average amounts received for the two (2) years preceding admission or interim reexamination. If only a one (1) year history is available, the HACP will use the prior year amounts. In either case the family may provide, and the HACP 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 HACP will count only the amount estimated by the employer. The file will be documented appropriately.

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

All regular pay, special pay and allowances of a member of the Armed Forces are counted ~~[24 CFR 5.609(b)(8)]~~ except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire [24 CFR 5.609(eb)(711)].

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

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

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

### **HACP Policy**

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

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

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

### ***Certain Earned Income of Full-Time Students***

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

### ***Income of a Live-in Aide***

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

### ***Income Earned under Certain Federal Programs***

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

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

### ***Resident Service Stipend***

~~Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed \$200 per individual per month) received by a resident for performing a service for the 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 [24 CFR 5.600(c)(8)(iv)].~~

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

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

## **HACP Policy**

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

The HACP 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 HACP 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 HACP’s interim reporting requirements.

## **HUD-Funded Training Programs**

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

## **HACP Policy**

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

## **Earned Income Tax Credit**

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

## **Earned Income Disallowance**

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

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

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

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

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

A family member other than the head of household or spouse/cohead is considered a full-time student if they are attending school or vocational training on a full-time basis [24 CFR 5.603(b)]. To be considered “full-time,” a student must be considered “full-time” by an educational institution with a degree or certificate program [HCV GB, p. 5-29].

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

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

### **Eligibility**

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

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

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

## Calculation of the Disallowance

Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that they are participating in EID.

## Calculation Method

### *Initial Twelve (12)-Month Exclusion*

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

### HACP Policy

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

### *Second Twelve (12)-Month Exclusion*

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

### HACP Policy

During the second twelve (12)-month exclusion period, the HACP will exclude 50% of any increase in income attributable to new employment or increased earnings.

### *Lifetime Limitation*

The EID has a two-year (24-month) lifetime maximum. The two (2) year eligibility period begins at the same time that the initial exclusion period begins and ends twenty-four (24) months later. During the twenty-four (24) month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance. The EID will sunset on January 1, 2026. In no circumstances will a family member's exclusion period continue past January 1, 2026.

The period of availability during which a family member is eligible to receive the benefit of EID is limited to twenty-four (24) straight months (two years):

- Once a family member is determined to be eligible for the EID, the twenty-four (24)-calendar month period starts;
- If the family member discontinues the employment that initially qualified the family for the EID, the twenty-four (24)-calendar month period continues;
- During the twenty-four (24)-calendar month period, EID benefits are recalculated based on changes to family member income and employment;
- During the first twelve (12)-calendar month period, a PHA must exclude all increased income resulting from the qualifying employment of the family member. After the first twelve (12)-calendar month period, the PHA must exclude from annual income of the family at least fifty (50) percent of any increase in income of such family member as a result of employment over the family member's income before the qualifying event (i.e., the family's baseline income);



- ~~The EID benefit is limited to a lifetime twenty-four (24) month period for the qualifying family member;~~
- ~~At the end of the twenty-four (24) months, the EID ends regardless of how many months were “used.”~~
- ~~The family member who received EID for twenty-four (24) straight months is no longer eligible to receive EID for the remainder of their participation in the HCV program (it’s a one-time benefit).~~

#### **HACP Policy**

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

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

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

#### **Business Expenses**

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

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

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

#### **HACP Policy**

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

#### **Independent Contractors**

Income received as an independent contractor is included in annual income, even if the source, date, or amount of the income varies [24 CFR 2.609 (b)(24)].

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

## **Business Expansion**

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

### **HACP Policy**

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

## **Capital Indebtedness**

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

### **HACP 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 HACP 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.

### **HACP 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 HACP 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**

### **HACP Policy**

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

## Assets Owned by a Business Entity

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

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

### Introduction

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

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

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

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

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

In 2005, Congress passed a law (for HCV programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

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

- They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.
- They are seeking or receiving HCV assistance on their own—that is, apart from their parents—through the HCV program, the project-based voucher program, or the moderate rehabilitation program.
- They are under 24 years of age **OR** they have no dependent children.

For students who satisfy these three (3) conditions, any financial assistance in excess of tuition and any other required fees and charges received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

To determine annual income in accordance with the above requirements, the PHA will use the definitions of dependent child, institution of higher education, and parents in Chapter 3, along with the following definitions [FR 4/10/06, pp. 18148-18150]:

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

Any student financial assistance not subject to inclusion under the regulations is fully excluded from annual income, whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

- Students residing with parents who are seeking or receiving HCV assistance
- Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of institution of higher education
- Students who are over 23 **AND** have at least one dependent child, as defined in section 3-II.E
- Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

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

The regulations under HOTMA distinguish between two (2) 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 education institution and not residing in an assisted unit.

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

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

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

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

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

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

#### **HACP Policy**

If a student only receives financial assistance under Title IV of the HEA and does not receive any other student financial assistance, the HACP will exclude the full amount of the assistance received under Title IV from the family's annual income. The HACP 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 HACP will first calculate the actual covered costs to the student in accordance with 24 CFR 5.609(b)(ii). The HACP will then subtract the total amount of the student's financial assistance from the student's actual covered costs. The HACP will include any amount of financial assistance in excess of the student's actual covered costs in the family's annual income.

#### **Example 1**

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

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

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



### Example 2

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

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

### Example 3

- Actual covered costs: \$22,000
- Title IV HEA assistance: \$15,000
- The remaining amount not covered by Title IV HEA assistance is \$7,000 (\$22,000 in actual covered costs - \$15,000 in Title IV HEA assistance).
- Other Student Financial Assistance: \$5,000
- \$7,000 in remaining actual covered costs - \$5,000 in other financial assistance
- Excluded income: \$20,000 entire amount of the Title IV HEA Assistance + \$5,000 in other financial assistance
- Included income: \$0

### Example 4

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

## **6-I.H. PERIODIC PAYMENTS [Notice PIH 2023-27]**

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

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

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. However, periodic payments paid at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one (1) 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 (1) year.

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

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

### **HACP Policy**

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

When a delayed-start payment is received that is to be included and the family reports this during the period in which the HACP is processing an annual reexamination, the HACP will adjust the family's rent retroactively for the period the payment was intended to cover.

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

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

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

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

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

## **Social Security Benefits [Notice PIH 2023-27]**

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

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

## **HACP Policy**

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

## **Alimony and Child Support**

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

## **HACP Policy**

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

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

In order to verify that payments are not being made, the HACP will review child support payments over the last six (6) months.

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

At new admission or interim recertification, if any lump sum payments were made in the past twelve (12) months, the HACP will determine the likelihood of the family receiving another similar payment within the next twelve (12) month whether this amount will be included in the calculation of annual income.

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

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

If no payments have been made in the past three (3) months and there are no lump sums, the HACP will not include child support in annual income.

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

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

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

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This 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 (1) that can be extended.

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

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

Nonrecurring income that is excluded under the regulations includes:

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

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

### **Overview**

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

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

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 CFR 5.615 is provided as Exhibit 6-3. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

### **Covered Families**

The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]

### **Imputed Income**

When a welfare agency imposes a sanction that reduces a family’s welfare income because the family commits fraud or fails to comply with the agency’s economic self-sufficiency program or work activities requirement, the 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 CFR 5.615(b)(2)].

### **Offsets**

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c)(4)].

## **6-I.K. STATE PAYMENTS TO ALLOW INDIVIDUALS WITH DISABILITIES TO LIVE AT HOME [24 CFR 5.609(b)(19)]**

Payments made by or authorized by a state Medicaid agency (including through a managed care entity) or other state or federal agency to an assisted family to enable a member of the assisted family who has a disability to reside in the family’s assisted unit are excluded.

Authorized payments may include payments to a member of the assisted family through state Medicaid-managed care systems, other state agencies, federal agencies or other authorized entities.

The payments must be received for caregiving services a family member provides to enable another member of the assisted family who has a disability to reside in the family's assisted unit. Payments to a family member for caregiving services for someone who is not a member of the assisted family (such as for a relative that resides elsewhere) are not excluded from income.

Furthermore, if the agency is making payments for caregiving services to the family member for an assisted family member and for a person outside of the assisted family, only the payments attributable to the caregiving services for the caregiver's assisted family member would be excluded from income.

#### **6-I.L. CIVIL RIGHTS SETTLEMENTS [24 CFR 5.609(b)(25); FR Notice 2/14/23]**

Regardless of how the settlement or judgment is structured, civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from annual income. This may include amounts received because of litigation or other actions, such as conciliation agreements, voluntary compliance agreements, consent orders, other forms of settlement agreements, or administrative or judicial orders under the Fair Housing Act, Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act (Section 504), the Americans with Disabilities Act, or any other civil rights or fair housing statute or requirement.

While these civil rights settlement or judgment amounts are excluded from income, the settlement or judgment amounts will generally be counted toward the family's net family assets (e.g., if the funds are deposited into the family's savings account or a revocable trust under the control of the family or some other asset that is not excluded from the definition of *net family assets*). Income generated on the settlement or judgment amount after it has become a net family asset is not excluded from income. For example, if the family received a settlement or back pay and deposited the money in an interest-bearing savings account, the interest from that account would be income at the time the interest is received.

Furthermore, if a civil rights settlement or judgment increases the family's net family assets such that they exceed \$50,000 (as annually adjusted by an inflationary factor), then income will be imputed on the net family assets pursuant to 24 CFR 5.609(a)(2). If the imputed income, which HUD considers unearned income, increases the family's annual adjusted income by 10 percent or more, then an interim reexamination of income will be required unless the addition to the family's net family assets occurs within the last three months of the family's income certification period and the PHA or owner chooses not to conduct the examination.

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

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

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



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

- Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program [24 CFR 5.609(c)(12)(ii)].
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) [(24 CFR 5.609(b)(12)(i)].
- Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development [24 CFR 5.600(b)(12)(iii)].
- Incremental earnings and benefits to any family member resulting from participation in qualifying training program funded by HUD or in qualifying federal, state, tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program unless those amounts are excluded under 24 CFR 5.609(b)(9)(i) [24 CFR 5.609(b)(12)(iv)].

### **HACP Policy**

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

The HACP 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 HACP 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 PHA’s interim reporting requirements (see Chapter 11).

- Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(b)(13)].
- Adoption assistance payments for a child in excess of the amount of the dependent deduction per adopted child [24 CFR 5.609(b)(15)].
- Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(b)(20)].

- Amounts that HUD is required by federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(b) apply. HUD will publish a notice in the *Federal Register* to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

HUD publishes an updated list of these exclusions periodically. The most recent list of exclusions was published in the *Federal Register* on May 20, 2014. It includes:

- (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))
- (b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC
- (c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)
- (d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
- (e) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
- (f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
- (g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)
- (h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts
- (i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)
- (j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))
- (k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010
- (l) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)
- (m) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs)
- (n) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f))
- (o) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)

- (p) Payments received under 38 U.S.C. 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida
- (q) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)
- (r) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)
- (s) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))
- (t) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433)
- (u) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109-249) (See Section 6-I.L. for exceptions.)
- (v) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d))
- (w) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602)
- (x) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002
- (y) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013-30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. 117b(a))
- (z) Major disaster and emergency assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations
- (aa) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance [See also Notice PIH 2019-09]

## PART II: ASSETS

### 6-II.A. OVERVIEW

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

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

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

## ***General Policies***

### **Income from Assets**

The PHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes the 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 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.

### **HACP 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 HACP to show why the asset income determination does not represent the family's anticipated asset income.

### **Valuing Assets**

The calculation of asset income sometimes requires the 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.

### **HACP Policy**

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

### **Lump-Sum Receipts**

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

## **Imputing Income from Assets [24 CFR 5.609(b)(3), Notice PIH 2012-29]**

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

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

## **HACP Policy**

~~HACP will initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).~~

~~The HACP will review the passbook rate annually in December of each year. The rate will not be adjusted unless the current HACP rate is no longer within 0.75 percent of the national rate. If it is no longer within 0.75 percent of the national rate, the passbook rate will be set at the current national rate.~~

~~Changes to the passbook rate will take effect on February 1, following the December review.~~

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

## **HACP Policy**

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



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

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

HUD regulations require the HACP 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 PHAA to set a threshold below which assets disposed of for less than fair market value will not be counted [HCV GB, p. 5-27].

#### **HACP Policy**

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

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

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

#### **Separation or Divorce**

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

#### **HACP Policy**

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

#### **Foreclosure or Bankruptcy**

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

#### **Family Declaration**

#### **HACP Policy**

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

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

PHAs must include the value of any business or family assets disposed of by an applicant or participant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application or reexamination, as applicable, in excess of the consideration received for the asset.

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

### **Minimum Threshold**

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

### **HACP Policy**

The HACP 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 (2) years exceeds the gross amount received for the assets by more than \$1,000.

### **Separation or Divorce**

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

### **HACP Policy**

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

### **Foreclosure or Bankruptcy**

Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

### **Asset Owned by a Business Entity**

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

### **Family Declaration**

### **HACP Policy**

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

## **6-II.C. ASSET INCLUSIONS AND EXCLUSIONS *Types of Assets***

### **Checking and Savings Accounts *[Notice PIH 2023-27]***

~~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.~~

#### **HACP Policy**

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

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

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

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

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

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

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

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

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

~~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.~~

#### **HACP Policy**

~~In determining the market value of an investment account, the HACP 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 HACP will calculate asset income based on the earnings for the most recent reporting period.~~

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

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

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

### HACP Policy

The HACP will not include interest or dividends earned by investment accounts as actual income from assets even when the earnings are reinvested if the total interest or dividends for the family exceeds \$50,000, per its MTW authority.

When the total interest or dividend earned by investment accounts for the family exceeds \$50,000, the cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

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

### Equity in Real Property or Other Capital Investments

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

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

- ~~• Equity accounts in HUD homeownership programs [24 CFR 5.603(b)]~~
- ~~• The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first 10 years after the purchase date of the home [24 CFR 5.603(b)]~~

- ~~Equity in owner-occupied cooperatives and manufactured homes in which the family lives [HCV GB, p. 5-25]~~
- ~~Equity in real property when a family member's main occupation is real estate [HCV GB, p. 5-25]. This real estate is considered a business asset, and income related to this asset will be calculated as described in section 6 I.F.~~
- ~~Interests in Indian Trust lands [24 CFR 5.603(b)]~~
- ~~Real property and capital assets that are part of an active business or farming operation [HCV GB, p. 5-25]~~
- ~~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 minus the balance of the loan (mortgage) minus the expenses to convert to cash [Notice PIH 2012-3].~~

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

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

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

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

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

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

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

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

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

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

### HACP Policy

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

### HACP 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 HACP determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.~~



### **Jointly Owned Assets [Notice PIH 2023-27]**

For assets owned jointly by the family and one (1) or more individuals outside of the assisted family, the PHA must include the total value of the asset in the calculation of net family assets, unless:

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

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

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

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

### **HACP Policy**

If the family demonstrates that they can only access a portion of the income from an asset and said portion exceeds \$50,000, then only that portion's value is included in the calculation of income from assets.

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

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

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

#### **Revocable Trusts**

~~If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset [HCV GB, p. 5-25]. Any income earned as a result of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.~~

#### **Non-Revocable Trusts**

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

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

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

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

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

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

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

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

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

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

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

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

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

The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy is included in the calculation of the value of the family's assets [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 the family actually receives it.

## **HACP Policy**

Per its MTW authority, the HACP will not count any life insurance cash value if the total household cash value does not exceed \$50,000.

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

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

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

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

### **Asset Exclusions [24 CFR 5.603(b)]**

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

- The value of any account under a retirement plan recognized as such by the IRS, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals [24 CFR 5.603(b)(3)(iii)].
- The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located [24 CFR 5.603(b)(3)(iv)].
  - Real property as used in this part has the same meaning as that provided under the law of the state in which the property is located [24 CFR 5.100].
  - Examples of this include but are not limited to co-ownership situations (including situations where one owner is a victim of domestic violence), where one party cannot unilaterally sell the real property; property that is tied up in litigation; and inherited property in dispute [Notice PIH 2023-27].
- Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability [24 CFR 5.603(b)(3)(v)].
- The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 [24 CFR 5.603(b)(3)(vi)].
- The value of any qualified tuition program under Section 529 of such Code [24 CFR 5.603(b)(3)(vi)].
- The value of any "baby bond" account created, authorized, or funded by federal, state, or local government [24 CFR 5.603(b)(3)(vi)].
- Interests in Indian trust land [24 CFR 5.603(b)(3)(vii)].
- Equity in a manufactured home where the family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(viii)].

- Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982 [24 CFR 5.603(b)(3)(ix)];
- Family Self-Sufficiency accounts [24 CFR 5.603(b)(3)(x)];
- Federal tax refunds or refundable tax credits for a period of twelve (12) months after receipt by the family [24 CFR 5.603(b)(3)(xi)];
- The full amount of assets held in an irrevocable trust [Notice PIH 2023-27]; and
- The full amount of assets held in a revocable trust where a member of the family is the beneficiary, but the grantor/owner and trustee of the trust is not a member of the participant family or household [Notice PIH 2023-27].

## **6-II.D. DETERMINING INCOME FROM ASSETS**

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

### **Net Family Assets**

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

### **HACP Policy**

Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions such as settlement costs and transfer taxes [New PH OCC GB, *Income Determinations*, p. 24].

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

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

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

### **Actual Income from Assets**

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

## **HACP Policy**

Per its MTW authority, the HACP has HUD permission to not include any income from assets if the total household asset value is less than \$50,000.

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

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

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

## **HACP Policy**

Per its MTW authority, the HACP has HUD permission to not include any income from assets if the total household asset value is less than \$50,000.

### **Imputed Income from Assets**

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

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

## **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].~~

#### ~~HACP Policy~~

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

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

~~Necessary items of personal property are not considered assets [24 CFR 5.603(b)].~~

#### ~~HACP 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.~~

### **6 I.H. PERIODIC PAYMENTS**

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

#### **Periodic Payments Included in Annual Income**

- ~~• Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions. However, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family [24 CFR 5.609(b) (4) and (b) (3)].~~
- ~~• Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum [24 CFR 5.609(b) (4) and HCV, p. 5-14].~~



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

Most lump sums received as a result of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic social security or supplemental security income (SSI) payments are not counted as income [CFR 5.609(b) (4)]. Additionally, any deferred disability benefits that are received in a lump sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income [FR Notice 11/24/08].

### **HACP Policy**

When a delayed-start payment is received and reported during the period in which the HACP is processing a reexamination, the HACP will adjust the family share and HACP 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 HACP.

## **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 their benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, the PHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount [Notice PIH 2018-24].

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

Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone) [24 CFR 5.609(e) (2)]. Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income [Notice PIH 2008-30].

### **HACP Policy**

The HACP will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency [HCV GB, p. 5-18].

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

- ~~Lump sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA) [FR Notice 11/24/08].~~

## **~~6-I.I. PAYMENTS IN LIEU OF EARNINGS~~**

~~Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income [24 CFR 5.609(b)(5)] if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts [24 CFR 5.609(c)(3)]. (See also the discussion of periodic payments in section 6-I.H and the discussion of lump-sum receipts in section 6-I.G.)~~

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

### **~~Overview~~**

~~Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments [24 CFR 5.603(b)].~~

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

~~The 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 CFR 5.615 is provided as Exhibit 6-5. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.~~

### **~~Covered Families~~**

~~The families covered by 24 CFR 5.615 are those “who receive welfare assistance or other public assistance benefits (‘welfare benefits’) from a State or other public agency (‘welfare agency’) under a program for which Federal, State or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance” [24 CFR 5.615(b)]~~

### **~~Imputed Income~~**

~~When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, the 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 CFR 5.615(b)(2)].~~

## **Offsets**

The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero [24 CFR 5.615(c) (4)].

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

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

### **~~Alimony and Child Support~~**

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

### **HACP Policy**

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

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

### **~~Regular Contributions or Gifts~~**

~~The PHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family [24 CFR 5.609(b)(7)]. Temporary, nonrecurring, or sporadic income and gifts are not counted [24 CFR 5.609(e)(9)].~~

### **HACP Policy**

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

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

## **~~6-I.L. STUDENT FINANCIAL ASSISTANCE [24 CFR 5.609(b) (9) and FR 12/14/12]~~**

~~In 2005, Congress passed a law (for section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.~~

### ~~Student Financial Assistance Included in Annual Income [24 CFR 5.609(b)(9) and FR 4/10/06]~~

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

- ~~• They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965.~~
- ~~• They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based certificate program, the project-based voucher program, or the moderate rehabilitation program.~~
- ~~• They are under 24 years of age **OR** they have no dependent children.~~

~~For students who satisfy these three conditions, any financial assistance in excess of tuition and any other required fees and charges received: (1) under the 1965 HEA, (2) from a private source, or (3) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.~~

~~To determine annual income in accordance with the above requirements, the PHA will use the definitions of *dependent child*, *institution of higher education*, and *parents* in Section 3 II.E, along with the following definitions [FR 4/10/06, pp. 18148-18150]:~~

- ~~• *Assistance under the Higher Education Act of 1965* includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.~~
- ~~• *Assistance from private sources* means assistance from nongovernmental sources, including parents, guardians, and other persons not residing with the student in an HCV-assisted unit.~~
- ~~• Tuition will have the meaning given this term by the institution of higher education in which the student is enrolled and will include any other fees and charges required by the institution for enrollment [FR 12/14/12, p. 74497].~~

### ~~Student Financial Assistance Excluded from Annual Income [24 CFR 5.609(c)(6)]~~

~~Any student financial assistance not subject to inclusion under 24 CFR 5.609(b)(9) is fully excluded from annual income under 24 CFR 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending.~~

~~This includes any financial assistance received by:~~

- ~~• Students residing with parents who are seeking or receiving Section 8 assistance~~
- ~~• Students who are enrolled in an educational institution that does **not** meet the 1965 HEA definition of *institution of higher education*~~
- ~~• Students who are over 23 **AND** have at least one dependent child, as defined in Section 3 II.E~~
- ~~• Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.~~

## **6.I.M. ADDITIONAL EXCLUSIONS FROM ANNUAL INCOME**

~~Other exclusions contained in 24 CFR 5.609(e) and updated by FR Notice 12/14/12 that have not been discussed earlier in this chapter include the following:~~

- ~~Reimbursement of medical expenses [24 CFR 5.609(e)(4)]~~
- ~~Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program [24 CFR 5.609(e)(8)(iii)]~~
- ~~Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self Sufficiency (PASS) [(24 CFR 5.609(e)(8)(ii)]~~
- ~~Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era [24 CFR 5.609(e)(10)]~~
- ~~Adoption assistance payments in excess of \$480 per adopted child [24 CFR 5.609(e)(12)]~~
- ~~Refunds or rebates on property taxes paid on the dwelling unit [24 CFR 5.609(e)(15)]~~
- ~~Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home [24 CFR 5.609(e)(16)]~~
- ~~Amounts specifically excluded by any other federal statute [24 CFR 5.609(e)(17), FR Notice 5/20/24]. HUD publishes an updated list of these exclusions periodically. It includes:~~
  - ~~(a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 (b))~~
  - ~~(b) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC~~
  - ~~(c) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058)~~
  - ~~(d) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(e))~~
  - ~~(e) 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)~~
  - ~~(f) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))~~
  - ~~(g) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. 2931)~~
  - ~~(h) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts~~
  - ~~(i) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04)~~
  - ~~(j) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b))~~
  - ~~(k) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al. v. Ken Salazar et al.*~~
  - ~~(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* product liability litigation, M.D.L. No. 381 (E.D.N.Y.)~~
- ~~(p) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721)~~
- ~~(q) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q)~~
- ~~(r) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j))~~
- ~~(s) 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)~~
- ~~(t)(a) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965; including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109-249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. 1437a(b)(3)(E) (Pub. L. 109-249) (See Section 6-I.L. for exceptions.)~~
- ~~(u)(b) 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)~~

## PART III: ADJUSTED INCOME

### 6-III.A. INTRODUCTION

#### Overview

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



5.611 Adjusted income means annual income (as determined under 24 CFR 5.609) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) Mandatory deductions. In determining adjusted income, the responsible entity [PHA] must deduct the following amounts from annual income:

- (1) \$480 for each dependent (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (2) ~~\$400-525~~ for any elderly family or disabled family (adjusted annually by HUD, rounded to the next lowest multiple of \$25);
- (3) The sum of the following, to the extent the sum exceeds ~~three-10~~ percent of annual income:
  - (i) Unreimbursed medical expenses of any elderly family or disabled family;
  - (ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. ~~This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and~~
- (4) Any reasonable child care expenses necessary to enable a member of the family to enable a member of the family to be employed or to further their education.

This part covers policies related to these mandatory deductions. Verification requirements related to these deductions are found in Chapter 7.

## Anticipating Expenses

### HACP Policy

Generally, the HACP 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 HACP 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 HACP 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 HACP may require the family to provide documentation of payments made in the preceding year.

When calculating health and medical care expenses, the HACP will include those expenses anticipated to be incurred during the twelve (12) months following the certification date which are not covered by an outside source, such as insurance. The allowance is not intended to give a family an allowance equal to last year's expenses, but to anticipate regular ongoing and anticipated expenses during the coming year. Since these expenses are anticipated, the PH Occupancy Guidebook states "it is likely that actual expenses will not match what was anticipated. Typically, this would not be considered an underpayment as long as at the time of the annual reexamination, the expenses were calculated based on the appropriate verification" [New PH OCC GB, Income Determinations, p. 30]. For annual reexaminations, the PHA will use information for the previous twelve (12) month period.

### 6-III.B. DEPENDENT DEDUCTION

An allowance of \$480 is deducted from annual income for each dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(1)]. *Dependent* is defined as any family member other than the head, spouse, or co-head who is under the age of 18 or who is 18 or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents [24 CFR 5.603(b)].

### 6-III.C. ELDERLY OR DISABLED FAMILY DEDUCTION

A single deduction of ~~\$400~~ \$25 is taken for any elderly or disabled family dependent (which amount will be adjusted by HUD annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers, rounded to the next lowest multiple of \$25) [24 CFR 5.611(a)(2)].

An *elderly family* is a family whose head, spouse, co-head, or sole member is 62 years of age or older, and a *disabled family* is a family whose head, spouse, co-head, or sole member is a person with disabilities [24 CFR 5.403].

### 6-III.D. HEALTH AND MEDICAL CARE EXPENSES DEDUCTION [24 CFR 5.611(a)(3)(i)]

Unreimbursed health and medical care expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed ~~three~~ 10 percent of annual income.

~~The medical expense~~ This deduction is permitted only for families in which the head, spouse, or co-head is at least 62 or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted ~~[VG, p. 28]~~.

#### Definition of Medical Expenses

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

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

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

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

### HACP 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 HACP will consider them medical expenses unless it is clear that the expenses are incurred exclusively to enable a person with disabilities to work.

## 6-III.E. DISABILITY ASSISTANCE EXPENSES DEDUCTION [24 CFR 5.603(b) and 24 CFR 5.611(a)(3)(ii)]

Unreimbursed Reasonable-reasonable expenses for attendant care and auxiliary apparatus for ~~a disabled family member~~ each member of the family who is a person with disabilities may be deducted if they: (1) are necessary to enable a family member 18 years or older to work, (2) are not paid to a family member or reimbursed by an outside source, (3) in combination with any medical expenses, exceed ~~three~~ 10 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 (1) family member (who may be the person with disabilities) is enabled to work [24 CFR 5.603(b)].

The disability expense deduction is capped by the amount of “earned income received by family members who are 18 years of age or older and who are able to work” because of the expense [24 CFR 5.611(a)(3)(ii)]. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

### HACP 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 HACP 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 HACP determines that the disability assistance expenses enable more than one (1) 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** [Notice PIH 2023-27]

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

### HACP Policy

~~Expenses incurred for maintaining or repairing an auxiliary apparatus is 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** [Notice PIH 2023-27]

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

~~The family determines the type of attendant care that is appropriate for the person with disabilities.~~

## **HACP 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 HACP will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not the person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

### ***Payments to Family Members***

No disability assistance expenses may be deducted for payments to a member of an assisted family [24 CFR 5.603(b)]. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

### **Necessary and Reasonable Expenses**

The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

## **HACP Policy**

The HACP determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, the HACP will collect information from organizations that provide services and support to persons with disabilities. A family may present, and the HACP 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**

## **HACP Policy**

This policy applies only to families in which the head or spouse is 62 or older or is a person with disabilities.

When expenses anticipated by a family could be defined as either **health and medical care** or disability assistance expenses, the HACP 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. CHILDCARE EXPENSE DEDUCTION

HUD defines *child care expenses* at 24 CFR 5.603(b) as “amounts anticipated to be paid by the family for the care of children under 13 years of age (including foster children) during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.”

### Clarifying the Meaning of *Child* for This Deduction

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*

##### HACP 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 HACP 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*

##### HACP 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 childcare expense being allowed by the HACP.

#### *Furthering Education*

##### HACP 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***

### **HACP 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 Childcare Expense Deduction**

When a family member looks for work or furthers their 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 CFR 5.603(b)].

The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above \$480 is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that actually is included in annual income. For example, if a family member who qualifies for the EID makes \$15,000 but because of the EID only \$5,000 is included in annual income, childcare expenses are limited to \$5,000.

The PHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working [HCV GB, p. 5-30].

### **HACP Policy**

When the childcare expense being claimed is to enable a family member to work, only one (1) family member's income will be considered for a given period. When more than one (1) family member works during a given period, the HACP generally 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 Childcare 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 Childcare Activities***

### **HACP 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 HACP 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 child care provider verifies, that the expenses are not paid or reimbursed by any other source.

### **HACP 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 (1) study hour for each hour spent in class.

To establish the reasonableness of childcare costs, the HACP will use the schedule of childcare costs from ~~the local welfare agency~~ a qualified local entity that either subsidizes childcare costs or licenses childcare providers. Families may present, and the HACP will consider, justification for costs that exceed typical costs in the area.

## **6-III.G. HARDSHIP EXEMPTIONS [24 CFR 5.611(c), (d), and (e)]**

### **Health and Medical Care and Disability Assistance Expenses [24 CFR 5.611(c); Notice PIH 2023-27]**

The regulations provide for two (2) types of hardship exemption categories for families that qualify for unreimbursed health and medical care expenses and/or disability assistance expenses. A family will benefit from this hardship exemption only if the family has eligible expenses that can be deducted in excess of 5 percent of annual income. In order to claim unreimbursed health and medical care expenses, the family must have a head, cohead, or spouse that is elderly or a person with a disability. In order to claim unreimbursed reasonable attendant care and auxiliary apparatus expenses, the family must include a person with a disability, and the expenses must enable any member of the family (including the member who is a person with a disability) to be employed.

Families may be eligible for relief under one of two (2) categories; phased-in relief or general relief, as defined below.

#### ***Phased-In Relief***

The first category is applicable to all families who received a deduction for unreimbursed health and medical care and/or reasonable attendant care or auxiliary apparatus expenses based on their most recent income review prior to January 1, 2024. The family must receive phased-in relief if they are determined to be eligible as of January 1, 2024. These families will begin receiving a twenty-four (24) month phased-in relief at their next annual or interim reexamination, whichever occurs first.

For these families, the threshold amount is phased-in as follows:

- The family is eligible for a deduction totaling the sum of expenses that exceeds 5 percent of annual income for the first twelve (12) months.
- At the conclusion of twelve (12) months, the family is eligible for a deduction totaling the sum of their expenses that exceed 7.5 percent of annual income for another twelve (12) months.
- At the conclusion of twenty-four (24) months, the standard threshold amount of 10 percent would be used, unless the family qualifies for relief under the general hardship relief category.
  - When an eligible family's phased-in relief begins at an interim reexamination, the PHA will need to process another transaction one year later to move the family along to the next phase. The transaction can be either an interim reexamination if triggered, or a non-interim reexamination transaction.

Prior to the end of the twenty-four (24) month period, the family may request a hardship exemption under the second category as described below. If the family is found eligible under the second category, the hardship exemption under the first category ends, and the family's hardship is administered in accordance with the requirements listed below. Once a family requests general relief, the family may no longer receive phased-in relief.

PHAs must track the twenty-four (24) month phase-period for each eligible family, even if a family's expenses go below the appropriate phase-in percentage, during the first or second twelve (12) month phase-in period. The phase-in must continue for families who move to another public housing unit at the same PHA. When the family is treated as a new admission under a different property/program (e.g., the family moves from public housing to the HCV program), unless the PHA has a written policy to continue the phased-in relief upon admission, the family's expense deduction will be calculated using the 10-percent threshold unless request for general relief is approved by the PHA. When a family moves with continued assistance or ports to a new PHA, the family must continue to receive the phased-in relief. The family must receive the remaining calendar months of the percentage phase-in. The PHA must use the existing phase-in documentation to determine the remaining calendar months and the percentage phase-in.

### **HACP Policy**

The HACP will not continue the phased-in relief for families who move from public housing to HCV. These families will be treated as new admissions and the sum of expenses that exceeds 10 percent of annual income will be used to calculate their adjusted income.

### **General Relief**

The second category is for families that can demonstrate:

- Their health and medical and/or disability assistance expenses increased (other than the transition to the higher threshold); or
- The family's financial hardship is a result of a change in circumstances (as defined in PHA policy) that would not otherwise trigger an interim reexamination.

The family may request a hardship exemption under the second category regardless of whether the family previously received the health and medical and/or disability assistance deductions or are currently or were previously receiving relief under the phased-in relief category above. HUD requires that PHAs develop policies defining what constitutes a hardship for purposes of this exemption.

The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the ninety (90) day hardship exemption period.

### **HACP Policy**

To qualify for a hardship exemption, a family must submit a request in writing. The request must show that the family's health and medical and/or disability assistance expenses have increased (other than the transition to the higher threshold) and that the family's financial hardship is a result of a change in circumstances. The HACP defines a *change in circumstances* as a decrease in income or increase in other expenses that has resulted in the family's financial hardship but does not, on its own, trigger an interim reexam in accordance with HACP policies.

Examples of circumstances constituting a financial hardship may include the following situations:

- The family is awaiting an eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits;
- The family's income decreased because of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster; or
- Other circumstances as determined by the HACP.

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the HACP will document the file with the reason and will attempt to obtain third-party verification prior to the end of the ninety (90) day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions. The notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)].

### **HACP Policy**

The HACP will make a determination of whether the family qualifies within thirty (30) calendar days and will notify the family in writing of the result within ten (10) business days of the determination.

If the HACP denies the hardship exemption request, the HACP notice will also state that if the family does not agree with the HACP determination, the family may request a hearing.

If the family qualifies for an exemption, the HACP will include the date the hardship exemption will begin and the date it will expire as well as information on how to request a ninety (90) day extension based on family circumstances.

If the family qualifies, the family will receive a deduction for the sum of eligible expenses that exceed five percent of annual income.

The family's hardship relief ends when the circumstances that made the family eligible for the relief are no longer applicable or after ninety (90) days, whichever is earlier. However, the PHA may, at its discretion, extend the relief for one or more additional ninety (90) day periods while the family's hardship condition continues. PHAs are not limited to a maximum number of ninety (90) day extensions.

PHAs must establish written policies regarding the types of circumstances that will allow a family to qualify for a financial hardship and when such deductions may be eligible for additional ninety (90) day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

## **HACP Policy**

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The HACP will extend relief for an additional ninety (90) days if the family demonstrates to the HACP's satisfaction that the family continues to qualify for the hardship exemption based on circumstances described above. The HACP will require updated verification based on the family's current circumstances. Additional extensions may be granted on a case-by-case basis provided the family continues to request extensions prior to the end each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the HACP may terminate the hardship exemption if the HACP determines that the family no longer qualifies for the exemption.

## **Childcare Expenses [24 CFR 5.611(d) and Notice PIH 2023-27]**

A family whose eligibility for the childcare expense deduction is ending may request a financial hardship exemption to continue receiving the deduction. If the family demonstrates to the PHA's satisfaction that the family is unable to pay their rent because of the loss of the childcare expense deduction, and that the child care expense is still necessary even though the family member is not working, looking for work, or seeking to further their education, the PHA must recalculate the family's adjusted income and continue the child care deduction.

The PHA must develop a policy to define what constitutes a hardship, which includes the family's inability to pay rent. The PHA must obtain third-party verification of the hardship or must document in the file the reason third-party verification was not available. PHAs must attempt to obtain third-party verification prior to the end of the ninety (90) day hardship exemption period.

## **HACP Policy**

For a family to qualify, they must demonstrate that their inability to pay rent would be as a result of the loss of this deduction. The HACP defines this hardship as a potential decrease in income or increase in other expenses that would result from the loss of the childcare expense and such loss would impact the family's ability to pay their rent.

Some factors to consider when determining if the family is unable to pay rent may include determining that the rent, utility payment, and applicable expenses (childcare expenses or health and medical expenses) is more than 40 percent of the family's adjusted income, or verifying whether the family has experienced unanticipated expenses, such as large medical bills, that have affected their ability to pay their rent.

The family must also demonstrate that the childcare expense is still necessary even though the family member is no longer employed or furthering their education. The HACP will consider qualification under this criterion on a case-by case basis (for example, if the family member who was employed has left their job in order to provide uncompensated care to an elderly friend or family member who is severely ill and lives across town).

The family must provide third-party verification of the hardship with the request. If third-party verification is not available, the HACP will document the file with the reason and will attempt to obtain third-party verification prior to the end of the ninety (90) day hardship exemption period.

The PHA must promptly notify the family in writing of the change in the determination of adjusted income and the family's rent resulting from hardship exemptions.

If the PHA denies the request, the notice must specifically state the reason for the denial. PHAs must provide families thirty (30) days' notice of any increase in rent.



If the PHA approves the request, the notice must inform the family of when the hardship exemption will begin and expire [24 CFR 5.611(e)(2)]. The notice must also state the requirement for the family to report to the PHA if the circumstances that made the family eligible for relief are no longer applicable and that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption [Notice PIH 2023-27].

### **HACP Policy**

The HACP will make a determination of whether the family qualifies within thirty (30) calendar days and will notify the family in writing of the result within ten (10) business days of the determination.

If the HACP denies the hardship exemption request, the HACP notice will also state that if the family does not agree with the HACP determination, the family may request a grievance hearing.

If the family qualifies for an exemption, the HACP will include all required information listed above as well as information on how to request a ninety (90) day extension based on family circumstances.

If the family qualifies, the hardship exemption and the resulting alternative adjusted income calculation must remain in place for a period of up to ninety (90) days.

The PHA may, at its discretion, extend the hardship exemptions for additional ninety (90) day periods based on family circumstances and as stated in PHA policies. PHAs are not limited to a maximum number of ninety (90) day extensions. PHAs must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.

PHAs must promptly notify families in writing if they are denied either an initial hardship exemption or an additional ninety (90) day extension of the exemption. If the PHA denies the request, the notice must specifically state the reason for the denial.

PHAs must notify the family if the hardship exemption is no longer necessary and will be terminated because the circumstances that made the family eligible for the exemption are no longer applicable. The notice must state the termination date and provide thirty (30) days' notice of rent increase, if applicable.

### **HACP Policy**

The family may request an extension either orally or in writing prior to the end of the hardship exemption period. The HACP will extend relief for an additional ninety (90) days if the family demonstrates to the HACP's satisfaction that the family continues to qualify for the hardship exemption. The HACP will require updated verification based on the family's current circumstances. Additional extension may be granted on a case-by-case basis provided the family continues to request extensions prior to the end each hardship exemption period. Families must report if the circumstances that made the family eligible for the hardship exemption are no longer applicable. At any time, the HACP may terminate the hardship exemption if the HACP determines that the family no longer qualifies for the exemption.

## **6-III.H. PERMISSIVE DEDUCTIONS [24 CFR 5.611(b)(1)(ii)]**

The PHA may adopt additional permissive deductions from annual income if they establish a policy in the administrative plan. Permissive deductions are additional, optional deductions that may be applied to annual income. As with mandatory deductions, permissive deductions must be based on need or family circumstance and deductions must be designed to encourage self-sufficiency or other economic purpose. If the PHA offers permissive deductions, they must be granted to all families that qualify for them and should complement existing income exclusions and deductions [PH Occ GB, p. 128]. Permissive deductions may be used to incentivize or encourage self-sufficiency and economic mobility.



A PHA that adopts such deductions must have sufficient funding to cover the increased housing assistance payment cost of the deductions. A PHA will not be eligible for an increase in HCV renewal funding for subsidy costs resulting from such deductions.

### HACP Policy

The HACP has opted to use one (1) permissive deduction. The HACP will exclude all income earned by elderly family members aged 62 or older.

## **PART ~~III~~IV: CALCULATING FAMILY SHARE AND HACP SUBSIDY**

### **6-~~III~~IV.A. OVERVIEW OF RENT AND SUBSIDY CALCULATIONS**

#### **TTP Formula [24 CFR 5.628]**

HUD regulations specify the formula for calculating the total tenant payment (TTP) for an assisted family. TTP is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income (adjusted income is defined in Part II)
- 10 percent of the family's monthly gross income (annual income, as defined in Part I, divided by 12)
- The welfare rent (does not apply in this locality) -
- A minimum rent between \$0 and \$50 that is established by the PHA

### HACP Policy

Per its MTW authority, the HACP has established a minimum rent of \$50 or \$150 depending on the policy outlined below.

The PHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in section 6-IV.B.

The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

#### ***Welfare Rent [24 CFR 5.628]***

### HACP Policy

Welfare rent does not apply in this locality.

#### ***Minimum Rent [-24 CFR 5.630, as amended by MTW]***

~~The PHA must charge a family no less than a minimum monthly rent established by the responsible entity. For voucher programs, the PHA may establish a minimum rent of up to \$50.~~

### HACP Policy

Per its Moving to Work (MTW) authority, the HACP requires that any non-elderly, able-bodied head of household who is not working to either a) participate in a local self-sufficiency, welfare to work, or other employment preparation and/or training/educational program or b) pay a minimum tenant payment of \$150.00 per month.

The HACP shall grant exemptions to this standard in the following instances:

- a. Tenant is a participant in an economic self-sufficiency/FSS program; or
- b. Tenant is 62 years or older; or
- c. Tenant is a blind or disabled individual, as defined under 216(i)(1) or 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who certifies that, because of this disability, he or she is unable to participate in the economic self-sufficiency/FSS program, or
- d. Tenant is engaged in work activities at a minimum of 15 hours per week at minimum wage; or
- e. Tenant meets the requirements for being exempted from having to engage in a work activity under a Pennsylvania state program funded under part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under any other welfare program of the State of Pennsylvania, including the State-administered welfare-to-work program; or
- f. Tenant meets the requirements for having to engage in a work or training activity under the PA state program funded by Part A of Title IV of the SS Act (42 U.S.C. et. seq.) or under any other welfare program of the state of PA which requires a work or training activity for continued eligibility and has not been found by the state or other administering entity to be in noncompliance with such program.

#### **Family Share [24 CFR 982.305(a)(5), ~~as amended by MTW~~]**

~~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.) At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share does not exceed forty (40) percent of the family's monthly adjusted income.~~

#### **HACP Policy**

Per its MTW authority, the HACP may allow the family's rent portion to exceed forty (40) percent of the family's monthly adjusted income if a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds the HACP's applicable payment standard at initial occupancy. (For a discussion of the application of payment standards, see section 6-III.C.) The income used for this determination must have been verified no earlier than one hundred-twenty (120) days before the family's voucher was issued.

If rent burden of family share is greater than 100 percent, the voucher holder may be requested to provide documentation evidencing how financial responsibilities will be met to maintain HCV participation. The HACP will use the 40% of AMI calculation as a guideline to counsel families at briefing sessions and during the request for lease approval process on the risks of the family's share becoming a rent burden.

#### **PHA Subsidy [24 CFR 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~~IV.C.)

## Utility Reimbursement [24 CFR 982.514(b); ~~982.514(c)~~]

When 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.

### HACP Policy

The HACP will make utility reimbursements to the family.

The PHA may make all utility reimbursement payments to qualifying families on a monthly basis or may make quarterly payments when the monthly reimbursement amount is \$15.00 or less. Reimbursements must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. The PHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship.

### HACP Policy

The HACP will issue all utility reimbursements monthly.

## 6-~~HHV~~.B. FINANCIAL HARDSHIPS AFFECTING MINIMUM RENT [24 CFR 5.630]

### Overview

If the PHA establishes a minimum rent greater than zero, the PHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If the 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.

### HACP 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.

### HACP Policy

For a family to qualify under this provision, the cause of the potential eviction must be the family's failure to pay rent to the owner or tenant-paid utilities.

- (3) Family income has decreased because of changed family circumstances, including the loss of employment.
- (4) A death has occurred in the family.

### HACP 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.

### HACP Policy

HACP 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.

### HACP Policy

The HACP defines temporary hardship as a hardship expected to last ninety (90) days or less. Long-term hardship is defined as a hardship expected to last more than ninety (90) days.

~~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 HACP will make the determination of hardship within thirty (30) calendar days.~~

When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

<b><u>Example: Impact of Minimum Rent Exemption</u></b>	
<u>Assume the PHA has established a minimum rent of \$50.</u>	
<b><u>Family Share – No Hardship</u></b>	<b><u>Family Share – With Hardship</u></b>
<u>\$0</u> <u>30% of monthly adjusted income</u>	<u>\$0</u> <u>30% of monthly adjusted income</u>
<u>\$15</u> <u>10% of monthly gross income</u>	<u>\$15</u> <u>10% of monthly gross income</u>
<u>N/A</u> <u>Welfare rent</u>	<u>N/A</u> <u>Welfare rent</u>
<u>\$50</u> <u>Minimum rent</u>	<u>\$50</u> <u>Minimum rent</u>
<u>Minimum rent applies.</u> <u>TTP = \$50</u>	<u>Hardship exemption granted.</u> <u>TTP = \$15</u>

### **HACP 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 inability to pay the minimum rent.

The HACP will make the determination of hardship within thirty (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.

### **HACP Policy**

The HACP will require the family to repay the suspended amount within thirty (30) calendar days of the HACP'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 ninety (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 PHA the amounts suspended. HUD requires 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.

### **HACP Policy**

The HACP 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, 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.

### **HACP Policy**

The hardship period ends when any of the following circumstances apply:

- (1) At an interim or annual reexamination, the family's calculated TTP is greater than the minimum rent.
- (2) For hardship conditions based on loss of income, the hardship condition will continue to be recognized until new sources of income are received that are at least equal to the amount lost. For example, if a hardship is approved because a family no longer receives a \$60/month child support payment, the hardship will continue to exist until the family receives at least \$60/month in income from another source or once again begins to receive the child support.
- (3) For hardship conditions based upon hardship-related expenses, the minimum rent exemption will continue to be recognized until the cumulative amount exempted is equal to the expense incurred.

## **6-~~HHV~~.C. APPLYING PAYMENT STANDARDS [24 CFR 982.505; 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 CFR 982.4(b)].

The payment standard for a family is the lower of (1) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the PHA's subsidy standards [24 CFR 982.4(b)], or (2) the payment standard for the size of the dwelling unit rented by the family.

If the PHA has established an exception payment standard for a designated part of a zip code area or 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, 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 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 a PHA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of the HAP contract, the PHA is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect [FR Notice 11/16/16].

However, if the PHA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, the PHA may either reduce the payment standard to the current amount in effect on the PHA's payment standard schedule or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The PHA may also establish difference policies for designated areas within their jurisdiction (e.g., different zip code areas).

In any case, the PHA must provide the family with at least twelve (12) months' notice that the payment standard is being reduced before the effective date of the change. The PHA's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

### **HACP Policy**

If HACP changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, the HACP will not reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect.

The HACP will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.

~~If the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard generally will be used beginning at the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard. 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, 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:** 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 PHA at the first regular reexamination following the decrease in the payment standard will be the higher of these two payment standards. 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 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 is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.~~

~~Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].~~

### **Increases**

~~If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.~~

~~Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination [HCV GB, p. 7-8].~~

### **Changes in Family Unit Size** **(Voucher Size)**

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

### **Reasonable Accommodation**

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, PHA is allowed to establish a higher payment standard for the family within the basic range.

### **HACP Policy**

~~The HACP has a Reasonable Accommodation schedule as a Moving to Work (MTW) approved activity. This payment standard was approved to exceed the basic range and has a set of requirements discussed elsewhere in this document.~~

## **6-~~HHV~~.D. APPLYING UTILITY ALLOWANCES [24 CFR 982.517]**

### **Overview**

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. PHA must use the appropriate utility allowance for the size of dwelling unit actually leased by a family rather than the voucher unit size for which the family qualifies using PHA subsidy standards. See Chapter 5 for information on the PHA's subsidy standards.

For policies on establishing and updating utility allowances, see Chapter 16.

### **Reasonable Accommodation** **and Individual Relief**

~~HCV program regulations require the PHA to approve a utility allowance amount higher than shown on the PHA's schedule if a higher allowance is needed as a reasonable accommodation for a family member with a disability. For example, if a family member with a disability requires such an accommodation, the PHA will approve an allowance for air conditioning, even if the PHA has determined that an allowance for air conditioning generally is not needed.~~

~~The family must request the higher allowance and provide 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].~~

On request from a family that includes a person with disabilities, the PHA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible and usable by the family member with a disability [24 CFR 982.517(e)]. (See Chapter 2 for policies regarding the request and approval of reasonable accommodations.)

Further, the PHA may grant requests for individual relief from charges in excess of the utility allowance on reasonable grounds, such as special factors not within control of the resident, as the PHA deems appropriate. The family must request the higher allowance and provide the PHA an explanation of the need for individual relief and an explanation about the amount of additional allowance required [see HCV GB, p. 18-8].

PHAs should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as “Medical Baseline discounts”) offered by the local utility company.

### **HACP Policy**

The family must request the higher allowance and provide the HACP with information about the amount of additional allowance required.

The HACP will consider the following criteria as valid reasons for granting individual relief:

- The family’s consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.
- The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family’s control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.
- The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

In determining the amount of the reasonable accommodation or individual relief, the HACP will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or HACP may conduct an internet search for an estimate of usage or additional monthly cost.

Information on reasonable accommodation and individual relief for charges in excess of the utility allowance will be provided to all families at admission as part of the information on payment standards and utility allowances in the briefing packet. The HACP will also provide information on utility relief programs or medical discounts (sometimes referred to as “Medical Baseline discounts”) that may be available through local utility providers.

At its discretion, the HACP may reevaluate the need for the increased utility allowance at any regular reexamination.

If the excessive consumption is caused by a characteristic of the unit or HACP-supplied equipment that is beyond the family’s control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

## Utility Allowance Revisions

At reexamination, the PHA must use the PHA current utility allowance schedule [~~24 CFR 982.517(d)~~ (2)HCV GB, p. 18-8].

### HACP 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-~~HHV~~.E. PRORATED ASSISTANCE FOR MIXED FAMILIES [24 CFR 5.520]**

HUD regulations prohibit assistance to ineligible family members. A *mixed family* is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. The PHA must prorate the assistance provided to a mixed family. The PHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that actually are eligible. For example, if the 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.

## EXHIBIT 6-1: ANNUAL INCOME ~~INCLUSIONS~~ FULL DEFINITION

### [24 CFR 5.609]

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

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

*(b) Annual income includes, but is not limited to:*

- |  |  |
|--|--|
| <ul style="list-style-type: none"><li><del>(1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;</del></li><li><del>(3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (b) (2) of this section. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;</del></li><li><del>(6) Welfare assistance payments:</del><ul style="list-style-type: none"><li><del>(i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:</del></li></ul></li></ul> | <ul style="list-style-type: none"><li><del>(2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;</del></li><li><del>(4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (c)(14) of this section);</del></li><li><del>(5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (c)(3) of this section);</del></li><li><del>(7)(6) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;</del></li></ul> |
|--|--|

~~(A) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and~~  
~~(B) Are not otherwise excluded under paragraph (c) of this section.~~

~~(ii) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:~~

~~(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus~~

~~(B) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.~~

~~(8)(7) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (c)(7) of this section).~~

~~(9)(8) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition and any other required fees and charges, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income.~~

**(a) Annual income includes, with respect to the family:**

(1) All amounts, not specifically excluded in paragraph (b) of this section, received from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and

(2) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

**(b) Annual income does not include the following:**

(1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.

(2) The following types of trust distributions:

(i) For an irrevocable trust or a revocable trust outside the control of the family or household excluded from the definition of net family assets under § 5.603(b):

(A) Distributions of the principal or corpus of the trust; and

(B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

(ii) For a revocable trust under the control of the family or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.

(3) Earned income of children under the 18 years of age.

(4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.

(5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.

(6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.

(7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.



8) Income of a live-in aide, foster child, or foster adult as defined in §§ 5.403 and 5.603, respectively. (9)

(i) Any assistance that section 479B of the Higher Education Act of 1965, as amended (20 U.S.C. 1087uu), requires be excluded from a family's income; and

(ii) Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

(A) Student financial assistance, for purposes of this paragraph (9)(ii), means a grant or scholarship received from—(

1) The Federal government;

(2) A State, Tribe, or local government;

(3) A private foundation registered as a nonprofit under 26 U.S.C. 501(c)(3);

(4) A business entity (such as corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, or nonprofit entity); or

(5) An institution of higher education.

(B) Student financial assistance, for purposes of this paragraph (9)(ii), does not include—

(1) Any assistance that is excluded pursuant to paragraph (b)(9)(i) of this section;

(2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to paragraph (b)(9)(i) of this section); (

3) Gifts, including gifts from family or friends; or

(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or paragraph (b)(9)(i), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit. This calculation is described further in paragraph (b)(9)(ii) of this section.

(C) Student financial assistance, for purposes of this paragraph (b)(9)(ii) must be:

(1) Expressly for tuition, books, room and board, or other fees required and charged to a student by the education institution;

(2) Expressly to assist a student with the costs of higher education; or

(3) Expressly to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the education institution and not residing in an assisted unit.

(D) Student financial assistance, for purposes of this paragraph (b)(9)(ii), may be paid directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance consistent with this paragraph (b)(9)(ii).

(E) When the student is also receiving assistance excluded under paragraph (b)(9)(i) of this section, the amount of student financial assistance under this paragraph (b)(9)(ii) is determined as follows:

(1) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is equal to or exceeds the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, none of the assistance described in this paragraph (b)(9)(ii) of this section is considered student financial assistance excluded from income under this paragraph (b)(9)(ii)(E).

(2) If the amount of assistance excluded under paragraph (b)(9)(i) of this section is less than the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section, the amount of assistance described in paragraph (b)(9)(ii) of this section that is considered student financial assistance excluded under this paragraph is the lower of:

(i) the total amount of student financial assistance received under this paragraph (b)(9)(ii) of this section, or

(ii) the amount by which the actual covered costs under paragraph (b)(9)(ii)(B)(4) of this section exceeds the assistance excluded under paragraph (b)(9)(i) of this section.

(10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, “baby bond” accounts created, authorized, or funded by Federal, State, or local government.

(11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

(12)

(i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;

(iii) Amounts received under a resident service stipend not to exceed \$200 per month. A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(14) Earned income of dependent fulltime students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

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

(17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.

(18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.

(19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family’s assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family’s assisted unit.

(20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).

(21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.

(22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

(23) Replacement housing “gap” payments made in accordance with 49 CFR part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing “gap” payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing “gap” payments.

(24) Nonrecurring income, which is income that will not be repeated in the coming year based on information provided by the family. Income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:

(i) Payments from the U.S. Census Bureau for employment (relating to decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.

(ii) Direct Federal or State payments intended for economic stimulus or recovery.

(iii) Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.

(iv) Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

(v) Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).

(vi) Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.

(vii) Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family’s Family Self Sufficiency Account.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

(i) Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and

(ii) Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

## HHS DEFINITION OF “ASSISTANCE”

~~(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).~~

~~(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 (4) months.~~

~~(6) Services such as counseling, case management, peer support, childcare information and referral, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support; and~~

~~(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) Work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training;~~

~~(4) Refundable earned income tax credits;~~

~~(5) Contributions to, and distributions from, Individual Development Accounts;~~

~~(7) Transportation benefits provided under a Job Access or Reverse Commute project, pursuant to section 404(k) of the [the Social Security] Act, to an individual who is not otherwise receiving assistance.~~

## EXHIBIT 6-2: ANNUAL INCOME EXCLUSIONS [24 CFR 5.609]

*(c) Annual income does not include the following*

~~(1) Income from employment of children (including foster children) under the age of 18 years;~~

~~(3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in paragraph (b)(5) of this section);~~

~~(6) Subject to paragraph (b)(9) of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;~~

~~(8) (i) Amounts received under training programs funded by HUD;~~

~~(ii) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain~~

~~(2) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);~~

~~(4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;~~

~~(5) Income of a live-in aide, as defined in § 5.403;~~

~~(7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;~~

~~(9)(8) Temporary, nonrecurring or sporadic income (including gifts);~~

~~(10)(9) 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;~~

Self-Sufficiency (PASS);

~~(iii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out of pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;~~

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

~~(v) Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;~~

~~(11)~~(10) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse);

~~(12)~~ Adoption assistance payments in excess of \$480 per adopted child;

~~(13)~~(11) [Reserved]

~~(14)~~(12) Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts;

~~(15)~~(13) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit;

~~(16)~~(14) Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; or

~~(17)~~(15) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.



## EXHIBIT 6-32: TREATMENT OF NET FAMILY ASSETS [24 CFR 5.603(B)]

### ~~(b) Net family assets.~~

- ~~(a) 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.~~
- ~~(b) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under § 5.609.~~
- ~~(c) 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.~~
- ~~(d) For purposes of determining annual income under § 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.~~

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

(2) In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or

other investments, so negative equity alone would not justify excluding the property or other investments from family assets.

(3) Excluded from the calculation of net family assets are: (i) The value of necessary items of personal property; (ii) The combined value of all non-necessary items of personal property if the combined total value does not exceed \$50,000 (which amount will be adjusted by HUD in accordance with the Consumer Price Index for Urban Wage Earners and Clerical Workers); (iii) The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; (iv) The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located; (v) Any amounts recovered in any civil action or settlement based on a claim of



malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability; (vi) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any “baby bond” account created, authorized, or funded by Federal, State, or local government. (vii) Interests in Indian trust land; (viii) Equity in a manufactured home where the family receives assistance under 24 CFR part 982; (ix) Equity in property under the Homeownership Option for

which a family receives assistance under 24 CFR part 982; (x) Family Self-Sufficiency Accounts; and (xi) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

(4) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household.

## **EXHIBIT 6-4: EARNED INCOME DISALLOWANCE [24 CFR 5.617]**

*Self-sufficiency incentives for persons with disabilities—Disallowance of increase in annual income.*

- (a) ***Applicable programs.*** The disallowance of earned income provided by this section is applicable only to the following programs: HOME Investment Partnerships Program (24 CFR part 92); Housing Opportunities for Persons with AIDS (24 CFR part 574); Supportive Housing Program (24 CFR part 583); and the Housing Choice Voucher Program (24 CFR part 98).

- (b) ***Definitions.*** The following definitions apply for purposes of this section.

*Baseline income.* The annual income immediately prior to implementation of the disallowance described in paragraph (c)(1) of this section of a person with disabilities (who is a member of a qualified family).

*Disallowance.* Exclusion from annual income.

~~(c) **Disallowance of increase in annual income**~~

~~(1) **Initial 12-month exclusion.** During the 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the responsible entity must exclude from annual income (as defined in the regulations governing the applicable program listed in paragraph (a) of this section) of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.~~

~~(2) **Second 12-month exclusion and phase-in.** Upon the expiration of the 12-month period defined in paragraph (c)(1) of this section and for the subsequent 12-month period, the responsible entity must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.~~

~~(3) **Maximum 2-year disallowance.** The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (c)(1) or (c)(2) of this section is limited to a lifetime 24-month period. The disallowance applies for a maximum of 12 months for disallowance under paragraph (c)(1) of this section and a maximum of 12 months for disallowance under paragraph (c)(2) of this section, during the 24-month period starting from the initial exclusion under paragraph (c)(1) of this section.~~

~~(4) **Effect of changes on currently participating families.** Families eligible for and participating in the disallowance of earned income under this section prior to May 9, 2016 will continue to be governed by this section in effect as it existed immediately prior to that date (see 24 CFR parts 0 to 199, revised as of April 1, 2016).~~

~~(d)(b) **Inapplicability to admission.** The disallowance of increases in income as a result of employment of persons with disabilities under this section does not apply for purposes of admission to the program (including the determination of income eligibility or any income targeting that may be applicable).~~

~~Previously unemployed includes a person with disabilities who has earned, in the twelve months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.~~

~~Qualified family. A family residing in housing assisted under one of the programs listed in paragraph (a) of this section or receiving tenant-based rental assistance under one of the programs listed in paragraph (a) of this section.~~

~~(1) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;~~

~~(2) Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or~~

~~(3) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance provided that the total amount over a six-month period is at least \$500.~~

## EXHIBIT 6-3: THE EFFECT OF WELFARE BENEFIT REDUCTION [24 CFR 5.615]

### Public housing program and Section 8 tenant-based assistance program: How welfare benefit reduction affects family income.

**(a) Applicability.** This section applies to covered families who reside in public housing (part 960 of this title) or receive Section 8 tenant-based assistance (part 982 of this title).

**(b) Definitions.** The following definitions apply for purposes of this section:

*Covered families.* Families who receive welfare assistance or other public assistance benefits (“welfare benefits”) from a State or other public agency (“welfare agency”) under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance.

*Economic self-sufficiency program.* See definition at Sec. 5.603.

*Imputed welfare income.* The amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

*Specified welfare benefit reduction.*

(1) A reduction of welfare benefits by the welfare agency, in whole or in part, for a family member, as determined by the welfare agency, because of fraud by a family member in connection with the welfare program; or because of welfare agency sanction against a family member for noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

(2) “Specified welfare benefit reduction” does not include a reduction or termination of welfare benefits by the welfare agency:

(i) at expiration of a lifetime or other time limit on the payment of welfare benefits;

(ii) because a family member is not able to obtain employment, even though the family member has complied with welfare agency economic self-sufficiency or work activities requirements; or

(iii) because a family member has not complied with other welfare agency requirements.

**(c) Imputed welfare income.**

(1) A family's annual income includes the amount of imputed welfare income (because of a specified welfare benefits reduction, as specified in notice to the PHA by the welfare agency), plus the total amount of other annual income as determined in accordance with Sec. 5.609.

(2) At the request of the PHA, the welfare agency will inform the PHA in writing of the amount and term of any specified welfare benefit reduction for a family member, and the reason for such reduction, and will also inform the PHA of any subsequent changes in the term or amount of such specified welfare benefit reduction. The PHA will use this information to determine the amount of imputed welfare income for a family.

(3) A family's annual income includes imputed welfare income in family annual income, as determined at the PHA's interim or regular reexamination of family income and composition, during the term of the welfare benefits reduction (as specified in information provided to the PHA by the welfare agency).

(4) The amount of the imputed welfare income is offset by the amount of additional income a family receives that commences after the time the sanction was imposed. When such additional income from other sources is at least equal to the imputed

(5) The PHA may not include imputed welfare income in annual income if the family was not an assisted resident at the time of sanction.

**(d) Review of PHA decision.**

(1) Public housing. If a public housing tenant claims that the PHA has not correctly calculated the amount of imputed welfare income in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the tenant written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. The PHA notice shall also state that if the tenant does not agree with the PHA determination, the tenant may request a grievance hearing in accordance with part 966, subpart B of this title to review the PHA determination. The tenant is not required to pay an escrow deposit pursuant to Sec. 966.55(e) for the portion of tenant rent attributable to the imputed welfare income in order to obtain a grievance hearing on the PHA determination.

(2) Section 8 participant. A participant in the Section 8 tenant-based assistance program may request an informal hearing, in accordance with Sec. 982.555 of this title, to review the PHA determination of the amount of imputed welfare income that must be included in the family's annual income in accordance with this section. If the family claims that such amount is not correctly calculated in accordance with HUD requirements, and if the PHA denies the family's request to modify such amount, the PHA shall give the family written notice of such denial, with a brief explanation of the basis for the PHA determination of the amount of imputed welfare income. Such notice shall also state that if the family does not agree with the PHA determination, the family may request an informal hearing on the determination under the PHA hearing procedure.

*(e) PHA relation with welfare agency.*

(1) The PHA must ask welfare agencies to inform the PHA of any specified welfare benefits reduction for a family member, the reason for such reduction, the term of any such reduction, and any subsequent welfare agency determination affecting the amount or term of a specified welfare benefits reduction. If the welfare agency determines a specified welfare benefits reduction for a family member, and gives the PHA written notice of such reduction, the family's annual incomes shall include the imputed welfare income because of the specified welfare benefits reduction.

(2) The PHA is responsible for determining the amount of imputed welfare income that is included in the family's annual income as a result of a specified welfare benefits reduction as determined by the welfare agency, and specified in the notice by the welfare agency to the PHA. However, the PHA is not responsible for determining whether a reduction of welfare benefits by the welfare agency was correctly determined by the welfare agency in accordance with welfare program requirements and procedures, nor for providing the opportunity for review or hearing on such welfare agency determinations.

(3) Such welfare agency determinations are the responsibility of the welfare agency, and the family may seek appeal of such determinations through the welfare agency's normal due process procedures. The PHA shall be entitled to rely on the welfare agency notice to the PHA of the welfare agency's determination of a specified welfare benefits reduction.

## CHAPTER 7: VERIFICATION

[24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230, NOTICE PIH 20~~23~~~~18~~~~18~~~~27~~]

### INTRODUCTION

The PHA must verify all information that is used to establish the family's eligibility and level of assistance and is required to obtain written authorization from the family in order to collect the information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. The PHA must not pass on the cost of verification to the family.

The PHA will follow the verification guidance provided by HUD in Notice PIH ~~2018-18~~2023-27 and any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary PHA policies.

Part I describes the general verification process. Part II provides more detailed requirements related to family information. Part III provides information on income and assets, and Part IV covers mandatory deductions.

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with the records management policies of the PHA.

### PART I: GENERAL VERIFICATION REQUIREMENTS

#### 7-I.A. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 982.516 AND 982.551, 24 CFR 5.230; and Notice PIH 2023-27]

~~The family must supply any information that PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551].~~

##### Consent Forms

~~The family must supply any information that PHA or HUD determines is necessary to the administration of the program and must consent to PHA verification of that information [24 CFR 982.551]. It is required that all All adult applicants and participants family members must consent forms as needed to collect information relevant to the family's eligibility and level of assistance. While PHAs must use form HUD-9886, this form does not release all the information necessary to the administration of the program. The PHA must also develop its own release forms to cover all other necessary information.~~

## **Form HUD-9886 [24 CFR 5.230(b)(1), (b)(2), (c)(4), and (c)(5)]**

All adult applicants and participants sign form HUD-9886, Authorization for Release of Information. All adult family members (and the head and spouse/cohead, regardless of age) are required to sign the Form HUD-9886 at each annual reexamination. HOTMA eliminated this requirement and instead required that Form HUD-9886 be signed only once. On or after January 1, 2024 (regardless of the PHA's HOTMA compliance date), current program participants must sign and submit a new Form HUD-9886-A at their next interim or annual reexamination. This form will only be signed once. Another Form HUD-9886-A will not be submitted to the PHA except under the following circumstances:

- When any person 18 years or older becomes a member of the family;
- When a current member of the family turns 18; or
- As required by HUD or the PHA in administrative instructions.

The PHA has the discretion to establish policies around when family members must sign consent forms when they turn 18. PHAs must establish these policies stating when family members will be required to sign consent forms at intervals other than at reexamination.

## **HACP Policy**

Family members turning 18 years of age between annual recertifications will be notified in writing that they are required to sign the required Consent to the Release of Information Form HUD-9886 at the family's next annual or interim reexamination, whichever is earlier.

The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and PHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). ~~Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.~~

The PHA may obtain any financial record from any financial institution, as the terms financial record and financial institution are defined in the Right to Financial Privacy Act (12 U.S.C. 3401), whenever the PHA determines the record is needed to determine an applicant's or participant's eligibility for assistance or level of benefits [24 CFR 5.230(c)(4)].

The executed form will remain effective until the family is denied assistance, assistance is terminated, or the family provides written notification to the PHA to revoke consent.

## **Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, the PHA will deny admission to applicants and terminate assistance of participants [24 CFR 5.232(a)]. The family may request an informal review (applicants) or informal hearing (participants) in accordance with PHA procedures.

However, this does not apply if the applicant, participant, or any member of their family, revokes their consent with respect to the ability of the PHA to access financial records from financial institutions, unless the PHA establishes a policy that revocation of consent to access financial records will result in denial or termination of assistance or admission [24 CFR 5.232(c)]. PHAs may not process interim or annual reexaminations of income without the family's executed consent forms.



## HACP Policy

The HACP has established a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance in accordance with HACP policy.

In order for a family to revoke their consent, the family must provide written notice to the HACP.

Within ten (10) business days of the date the family provides written notice, the HACP will send the family a notice acknowledging receipt of the request and explaining that revocation of consent will result in denial or termination of assistance, as applicable. At the same time, the HACP will notify their local HUD office.

## **~~7-1.B. OVERVIEW OF VERIFICATION REQUIREMENTS~~**

### **~~HUD's Verification Hierarchy [Notice PHH 2018-18]~~**

~~HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.~~

## HACP Policy

~~In order of priority, the forms of verification that PHA will use are:~~

- ~~• Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system~~
- ~~• Up-front Income Verification (UIV) using a non-HUD system~~
- ~~• Written Third-Party Verification (may be provided by applicant or participant)~~
- ~~• Written Third-party Verification Form~~
- ~~• Oral Third-party Verification~~
- ~~• Self-Certification~~

~~Each of the verification methods is discussed in subsequent sections below.~~

## **~~Requirements for Acceptable Documents~~**

### HACP Policy

~~Any documents used for verification must be the original (not photocopies) and generally must be dated within sixty (60) days of the date they are provided to HACP. The documents must not be damaged, altered or in any way illegible.~~

~~The HACP will accept documents dated up to six (6) months before the effective 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 HACP would accept the most recent report.~~

~~Printouts from websites are considered original documents.~~

~~The HACP staff member who views the original document must make a photocopy, annotate the copy with the name of the person who provided the document and the date the original was viewed, and sign the copy.~~

~~Any family self-certifications must be made in a format acceptable to HACP and must be signed in the presence of a PHA representative or PHA 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 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.~~

### **HACP Policy**

~~The HACP will document the following, in the family file:~~

- ~~• Copies of the most recent HAP contract, RFTA, and supporting action~~
- ~~• Original application and eligibility determination paperwork to include EIV Existing Tenant Search results~~
- ~~• Copies of the EIV Income and Income Validation Tool (IVT) Report~~
- ~~• Reported family annual income~~
- ~~• Value of assets~~
- ~~• Expenses related to deductions from annual income~~
- ~~• Other factors influencing adjusted income~~

~~When the PHA is unable to obtain third-party verification, the PHA will document in the family file the reason that third-party verification was not available [24 CFR 982.516(a)(2); Notice PIH 2018-18].~~

## **7-I.C. UP-FRONT INCOME VERIFICATION (UIV)**

~~Up-front income verification (UIV) refers to PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to PHA.~~

~~The PHA restricts access to and safeguards UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.~~

~~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 PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of PHA.~~

~~See Chapter 6 for the PHA's policy on the use of UIV/EIV to project annual income.~~

### **Upfront Income Verification (UIV) Using HUD's Enterprise Income Verification (EIV) System (Mandatory)**

~~PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or re-certifications of family composition and income in accordance with 24 CFR 5.236 and administrative guidance issued by HUD. 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.~~

### ***EIV Income Reports***

~~The data shown on income reports is updated quarterly. Data may be between 3 and 6 months old at the time reports are generated.~~

### **HACP Policy**

~~The HACP will obtain income reports for annual reexaminations on a monthly basis. Reports will be generated as part of the regular reexamination process.~~

~~Income reports will be compared to family provided information as part of the annual reexamination process. Income reports may be used in the calculation of annual income, as described in Chapter 6 I.C. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family provided information will be resolved as described in Chapter 6 I.C. and in this chapter.~~

~~Income reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify and calculate earned income, unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.~~

~~Income reports will be retained in participant files with the applicable annual or interim reexamination documents.~~

~~When the HACP 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.~~

~~PHA is required to use EIV's *Identity Verification Report* on a monthly basis to improve the availability of income information in EIV [Notice PIH 2018-18].~~

~~When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.~~

### **HACP Policy**

~~The HACP will identify participants whose identity verification has failed by reviewing EIV's Identity Verification Report on a monthly basis.~~

~~The HACP will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When the HACP determines that discrepancies exist due to HACP errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.~~

### **Upfront Income Verification Using Non-HUD Systems (Optional)**

~~In addition to mandatory use of the EIV system, HUD encourages the PHA to utilize other upfront verification sources.~~

### **HACP Policy**

~~The HACP will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:~~

- ~~• HUD's EIV system~~
- ~~• The Work Number~~

### **7-I.B. USE OF OTHER PROGRAMS' INCOME DETERMINATIONS [24 CFR 5.609(c)(3) and Notice PIH 2023-27]**

PHAs may, but are not required to, determine a family's annual income, including income from assets, prior to the application of any deductions, based on income determinations made within the previous twelve (12) month period, using income determinations from means-tested federal public assistance programs. PHAs are not required to accept or use determinations of income from other federal means-tested forms of assistance. If the PHA adopts a policy to accept this type of verification, the PHA must establish in policy when they will accept Safe Harbor income determinations and from which programs. PHAs must also create policies that outline the course of action when families present multiple verifications from the same or different acceptable Safe Harbor programs.

- Means-tested federal public assistance programs include:
- Temporary Assistance for Needy Families (TANF) (42 U.S.C. 601, et seq.);
- Medicaid (42 U.S.C. 1396 et seq.);
- Supplemental Nutrition Assistance Program (SNAP) (42 U.S.C. 2011 et seq.);
- Earned Income Tax Credit (EITC) (26 U.S.C. 32);
- Low-Income Housing Credit (LIHTC) program (26 U.S.C. 42);
- Special Supplemental Nutrition Program for Woman, Infants, and Children (WIC) (42 U.S.C. 1786);
- Supplemental Security Income (SSI) (42 U.S.C. 1381 et seq.);
- Other programs administered by the HUD Secretary;
- Other means-tested forms of federal public assistance for which HUD has established a memorandum of understanding; and
- Other federal benefit determinations made in other forms of means-tested federal public assistance that the Secretary determines to have comparable reliability and announces through the Federal Register.

If the PHA elects to use the annual income determination from one of the above-listed forms of means-tested federal public assistance, then they must obtain the income information by means of a third-party verification. The third-party verification must state the family size, must be for the entire family, and must state the amount of the family's annual income. The annual income need not be broken down by family member or income type. Annual income includes income earned from assets, therefore when using Safe Harbor to verify a family's income, PHAs will neither further inquire about a family's net family assets, nor about the income earned from those assets, except with respect to whether or not the family owns assets that exceed the asset limitation in 24 CFR 5.618. The Safe Harbor documentation will be considered acceptable if any of the following dates fall into the twelve (12) month period prior to the receipt of the documentation by the PHA:

- Income determination effective date;
- Program administrator's signature date;
- Family's signature date;
- Report effective date; or
- Other report-specific dates that verify the income determination date.

The only information that PHAs are permitted to use to determine income under this method is the total income determination made by the federal means-test program administrator. Other federal programs may provide additional information about income inclusions and exclusions in their award letters; however, these determinations and any other information must not be considered by the PHA. PHAs are not permitted to mix and match Safe Harbor income determinations and other income verifications.

If the PHA is unable to obtain Safe Harbor documentation or if the family disputes the other program's income determination, the PHA must calculate the family's annual income using traditional methods as outlined in Notice PIH 2023-27 and this chapter.

If the PHA uses a Safe Harbor determination to determine the family's income, the family is obligated to report changes in income that meet the PHA's reporting requirement and occur after the effective date of the transaction.

The amounts of unreimbursed reasonable attendant care expenses and childcare expenses deducted from a family's annual income, except for when a family is approved for a childcare expense hardship exemption, must still be capped by the amount earned by any family member who is enabled to work as a result of the expense. PHAs are therefore required to obtain third-party verification of the applicable employment income and cap the respective expense deductions accordingly.

### **HACP Policy**

The HACP will not accept other programs' determinations of income for any new admission, annual, or interim reexamination.

## 7-I.C. STREAMLINED INCOME DETERMINATIONS [24 CFR 960.257(c); Notice PIH 2023-27]

HUD permits PHAs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three (3) years thereafter, in the intervening years, the PHA may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or other inflationary adjustment factor. Streamlining policies are optional. The PHA may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the PHA must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

Two (2) streamlining options are available, depending upon the percentage of the family's income that is received from fixed sources.

When 90 percent or more of a family's unadjusted income is from fixed sources, the PHA may apply the inflationary adjustment factor to the family's fixed-income sources, provided that the family certifies both that 90 percent or more of their unadjusted income is fixed and that their sources of fixed income have not changed from the previous year. Sources of non-fixed income are not required to be adjusted and must not be adjusted by a COLA, but PHAs may choose to adjust sources of non-fixed income based on third-party verification. PHAs have the discretion to either adjust the non-fixed income or carry over the calculation of non-fixed income from the first year (1) to years two (2) and three (3).

When less than 90 percent of a family's unadjusted income consists of fixed income, PHAs may apply a COLA to each of the family's sources of fixed income. PHAs must determine all other income using standard verification requirements as outlined in Notice PIH 2023-27.

### HACP Policy

The HACP will not use the streamline income determination process.

## 7-I.D. VERIFICATION HIERARCHY [Notice PIH 2023-27]

When the PHA does not use a streamlined determination of income or an income determination from a means-tested federal assistance program, HUD requires the PHA to obtain third-party verification of:

- Reported family annual income;
- The value of net family assets when the net value exceeds \$50,000 (as adjusted annually);
- Expenses related to deductions from annual income; and
- Other factors that affect the determination of adjusted income.

HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires the PHA to use the most reliable form of verification that is available and to document the reasons when the PHA uses a lesser form of verification.



HUD developed a hierarchy that described verification documentation from most acceptable to least acceptable. The PHA must demonstrate efforts to obtain third party verification prior to accepting self-certification except instances when self-certification is explicitly allowed.

In order of priority, the hierarchy is:

- Highest: Level 6: Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system
- Highest: Level 5: Up-front Income Verification (UIV) using a non-EIV system
- High: Level 4:
  - Written third-party verification from the source, also known as "family-provided verification"
  - Or EIV plus self-certification
- Medium: Level 3: Written third-party verification form
- Medium: Level 2: Oral third-party verification
- Low: Level 1: Self-certification (not third-party verification)

Each of the verification methods is discussed in subsequent sections below.

### **File Documentation**

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.

## **7-I.E. LEVEL 5 AND 6 VERIFICATION: UP-FRONT INCOME VERIFICATION (UIV)**

Up-front income verification (UIV) refers to the PHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits for a number of individuals. PHAs may use UIV sources before or during a family reexamination.

UIV will be used to the extent that these systems are available to the PHA.

There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until the PHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of the PHA.

### **Upfront Income Verification Using HUD's Enterprise Income Verification (EIV) System**

PHAs must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during annual and streamlined reexaminations of family composition and income in accordance with 24 CFR 5.236 and Notice PIH 2023-27.

HUD's EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families.

The income validation tool (IVT) in EIV provides projections of discrepant income for wages, unemployment compensation, and SSA benefits pursuant to HUD's data sharing agreements with other departments.

The following policies apply to the use of HUD's EIV system.

### **EIV Income and IVT Reports**

PHAs are required to obtain an EIV Income and IVT report for each family any time the PHA conducts an annual reexamination. However, PHAs are not required to use the EIV Income and IVT reports:

- At annual reexamination if the PHA used Safe Harbor verification from another means-test federal assistance program to determine the family's income; or
- During any interim reexaminations.

The EIV Income and IVT Reports are also not available for program applicants at admission.

When required to use the EIV Income Report, in order for the report to be considered current, the PHA must pull the report within one hundred twenty (120) days of the effective date of the annual reexamination.

The EIV Income Report may be used to verify and calculate income at annual reexamination if the family self-certifies that the amount is accurate and representative of current income. The family must be provided with the information in EIV.

### **HACP Policy**

The HACP will obtain EIV income and IVT reports for all annual reexaminations for all families on a monthly basis. The PHA will ensure that all EIV Income Reports are pulled within one hundred twenty (120) days of the effective date of the annual reexamination.

Income and IVT reports will only be used for interim reexaminations as necessary. For example, EIV may be used to verify that families claiming zero income are not receiving income from any sources listed in EIV.

Income and IVT reports will be retained in participant files with the applicable annual documents or interim reexamination documents (if applicable) for the duration of the family's participation.

When the HACP determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity.

### **New Hires Report [Notice PIH 2023-27]**

The New Hires Report identifies participants families who have new employment within the last six months. The report is updated monthly.

PHAs must review this information at annual reexamination except when the PHA uses Safe Harbor verification from another means-tested federal assistance program to determine the family's income.

PHAs that do not require families to undergo interim reexaminations for earned income increases after an interim decrease are not required to review this report between a family's annual reexamination. If the PHA requires an interim for increases in earned income after an interim decrease, then the PHA must review the report quarterly after the family's interim decrease.

### **HACP Policy**

In accordance with HACP policies in Chapter 11, the HACP does not process interim reexaminations for families who have increases in earned income. The HACP will only review the New Hires Report at annual reexamination.

### **No Income Reported by HHS or SSA Report**

This report is a tool for PHAs to identify participants who passed the SSA identity test, but no income information was reported by either HHS or SSA records. This scenario does not mean that the participant does not have any income. PHAs obtain written, third-party verification of any income reported by the participant. The PHA must identify in its policies and procedures when this report will be pulled [Notice PIH 2023-27].

### **HACP Policy**

The HACP will generate the No Income Reported by HHS or SSA Report quarterly and will retain the report.

The HACP will re-verify the status of participants identified on the report quarterly. Based on the information provided by the family and in EIV, the PHA may require that family members provide verifications or sign release forms in order to obtain additional verification.

When the HACP determines through this report and third-party verification that a family has concealed or under-reported income, corrective action will be taken pursuant to the policies in Chapter 14, Program Integrity

### **EIV Identity Verification Report**

The EIV system verifies tenant identities against SSA records. These records are compared to HUD data for a match on social security number, name, and date of birth.

PHAs are required to use EIV's Identity Verification Report on a monthly basis to improve the availability of income information in EIV [Notice PIH 2023-27].

When identity verification for a participant fails, a message will be displayed within the EIV system and no income information will be displayed.

### **HACP Policy**

The HACP will identify participants whose identity verification has failed by reviewing EIV's Identity Verification Report on a monthly basis.

The HACP will attempt to resolve discrepancies by obtaining appropriate documentation from the participant. When the HACP determines that discrepancies exist as a result of PHA errors, such as spelling errors or incorrect birth dates, it will correct the errors promptly.

### **Deceased Tenants Reports [Notice PIH 2012-4 and Notice PIH 2023-27]**

The Deceased Tenant Report identifies residents that have been reported by the SSA as deceased. The PHA is required to review the report at least quarterly.

### **HACP Policy**

The HACP will review the Deceased Tenants Report on a quarterly basis.

When the Deceased Tenants Report identifies an individual as being deceased, PHAs must immediately send a letter to the head of household or emergency contact person (if the head of household is deceased and there is no other adult household member) to confirm the death of the listed household member. The PHA must notify the owner in writing of the deceased head of household.

PHAs may list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

### **HACP Policy**

The HACP will list the EOP as the last day of the month in which the death occurred. The landlord is entitled to receive the full HAP amount for the month in which the tenant death occurred.

When the only remaining household member is the live-in aide, the live-in aide is not entitled or eligible for any rental assistance or continued occupancy. The PHA may not designate the live-in aide as the new head of household or change the relation code on the Form HUD-50058.

### **Other EIV Reports [Notice PIH 2023-27]**

The PHA is required to review the Multiple Subsidy Report at least quarterly, and the Failed EIV Pre-Screening and Failed Verification (Failed SSA Identity Test) reports at least monthly.

### **Upfront Income Verification Using Non-HUD Systems**

HUD encourages PHAs to utilize other upfront verification sources such as the Work Number and web-based state benefits systems.

### **HACP Policy**

The PHA will inform all applicants and participants of its use of the following UIV resources:

- **The Work Number**
- **VerifyFast**

### **7-I.F. LEVEL 4 VERIFICATION [Notice PIH 2023-27]**

HUD identifies two types of Level 4 verification: written-third party verification from the source and EIV + self-certification.

#### **EIV + Self-Certification**

EIV may be used as written third-party verification and may be used to calculate income if the family agrees with the information in EIV and self-certifies that the amount is accurate and representative of current income. This practice is known as *EIV + self-certification*. When calculating income using this method, the PHA may use its discretion to determine which method of calculation is reasonable: the last four quarters combined or an average of any number of quarters. The family must be provided with the information from EIV.

## **HACP Policy**

At annual reexamination, if there are no reported changes to an income source, the HACP will use EIV + self-certification as verification of employment income, provided the family agrees with the amounts listed in EIV.

The HACP will use an average of the last two (2) quarters of income listed in EIV to determine income from employment. The HACP will provide the family with the information in EIV. The family will be required to sign a self-certification stating that the amount listed in EIV is accurate and representative of current income. If the family disagrees with the amount in EIV, the amount is not reflective of current income, or if less than two (2) quarters are available in EIV, the HACP will use written third-party verification from the source as outlined below.

The HACP will not use this method of verification at new admission since EIV is not available for applicant families or at interim reexamination since the income information in EIV is not current.

## **Written Third-Party Verification from the Source**

Written, third-party verification from the source is also known as “tenant-provided verification.” In order to qualify as written-third party verification from the source, the documents must be original or authentic and (generally) dated within one hundred twenty (120) days of the date received by the PHA. For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation. Documents may be supplied by the family or received from a third-party source.

Examples of acceptable tenant-provided documents include, but are not limited to pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer’s transmittal receipt, summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification.

The PHA is required to obtain, at minimum, two (2) current and consecutive pay stubs when calculating income using third-party verification from the source. For new income sources or when two pay stubs are not available, the PHA should determine income based on the information from a traditional written, third-party verification form or the best available information.

When the family disputes EIV-reported employment income, the PHA uses written third-party verification.

When verification of assets is required, PHAs are required to obtain a minimum of one statement that reflects the current balance of banking/financial accounts.

## **HACP Policy**

In general, the HACP will use third-party verification from the source in the following circumstances:

- At annual reexamination when EIV + self-certification is not used;
- For all new admissions; and
- For all interim reexaminations.

The HACP will not use this method if the HACP uses EIV + self-certification as outlined above.

In general, third-party documents provided by the family or the source must be dated within one hundred twenty (120) days of the date received by the HACP. However, for fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation.

The HACP 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. If the HACP determines that third-party documents provided by the family are not acceptable, the HACP will explain the reason to the family and request additional documentation from the family or will use a lower form of verification such as a written third-party verification form.

When verification of assets held by a banking or financial institution is required, the HACP will obtain one statement that reflects the current balance of the account.

When pay stubs are used, the HACP will require the family to provide the two (2) most current, consecutive pay stubs. At the HACP's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), the HACP may request additional paystubs or a payroll record.

### **7-I.G. LEVEL 3 VERIFICATION: WRITTEN, THIRD-PARTY FORM [Notice PIH 2023-27]**

This type of verification is a form developed by the PHA and used uniformly for all families when needed to collect information from a third-party source. This is known as "traditional third-party verification." PHAs send a PHA-developed form directly to the third-party source by mail, fax, or email, and the source completes the form by hand (in writing or typeset).

The PHA may use this method when higher forms are unavailable or are rejected by the PHA or when the family is unable to provide acceptable verification. The PHA may skip this level of verification and may instead substitute oral third-party verification before moving to self-certification.

#### **HACP Policy**

Typically, the HACP will attempt to send written third-party verification forms to the verification source whenever higher forms of verification are unavailable.

However, on a case-by-case basis, the HACP may choose to obtain oral third-party verification without first attempting, and in lieu of, a written-third party verification form.

### **7.I.H. LEVEL 2 VERIFICATION: ORAL THIRD-PARTY [Notice PIH 2023-27]**

For third-party oral verification, PHAs contact sources, identified by UIV techniques or by the family, by telephone or in person.

Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time—e.g., 10 business days.

PHAs must document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

The PHA may skip this level of verification if they attempted written third-party verification via a form and the source did not respond and move directly to self-certification.



## **HACP Policy**

In general, the HACP will attempt to obtain written third-party verification via a form from the verification source. If written third-party verification forms are not returned within ten (10) business days, the HACP will accept self-certification from the family without attempting to obtain oral third-party verification.

However, if the HACP chooses to obtain oral third-party verification, the HACP will document in the file the date and time of the telephone call or visit, the name of the person contacted and the telephone number, as well as the information confirmed.

## **When Third-Party Verification is Not Required [Notice PIH 2023-27]**

Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

## **HACP Policy**

If the family cannot provide original documents, the HACP 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.

## **7-I.I. LEVEL 1: NON-THIRD-PARTY VERIFICATION TECHNIQUE: SELF-CERTIFICATION [Notice PIH 2023-27]**

Non-third-party verification consists of a signed statement of reported income and/or expenses. This verification method should be used as a last resort when the PHA has not been successful in obtain information via all other required verification techniques.

Self-certification, however, is an acceptable form of verification when:

- A source of income is fully excluded;
- Net family assets total \$50,000 or less and the PHA has adopted a policy to accept self-certification;
- The family declares that they do not have any present ownership in any real property;
- A family states that they have non-recurring income that will not be repeated in the coming year; and/or
- The PHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income.

When the PHA was required to obtain third-party verification but instead relies on self-certification, the family's file must be documented to explain why third-party verification was not available.

HUD does not require that a self-certification be notarized; however, HUD recommends including language on any self-certification to ensure the certifier understands the consequences of knowingly providing false information.

### HACP 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 HACP.

The HACP 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 HACP and must be signed by the family member whose information or status is being verified.

All self-certifications will include the following language:

“I/We, the undersigned, certify under penalty of perjury that the information provided here is true and correct, to the best of my knowledge and recollection. WARNING: Anyone who knowingly submits a false claim or knowingly makes a false statement is subject to criminal and/or civil penalties, including confinement for up to five years, fines, and civil and administrative penalties (18 U.S.C. 287, 1001, 1010, 1012; 31 U.S.C. 3279, 3802).”

## **7-I.D. THIRD-PARTY WRITTEN AND ORAL VERIFICATION**

~~HUD’s current verification hierarchy defines two types of written third party verification. The more preferable form, “written third party verification,” consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to the PHA by the family. If written third-party verification is not available, the PHA must attempt to obtain a “written third-party verification form.” This is a standardized form used to collect information from a third party.~~

### **Written Third-Party Verification [Notice PIH 2018-18]**

~~Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.~~

~~Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.~~

~~The PHA is required to obtain, at minimum, two (2) current and consecutive pay stubs for determining annual income from wages.~~

~~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.~~

### HACP Policy

~~Third-party documents provided by the family must be dated within sixty (60) days of the HACP request date.~~

~~If the HACP determines that third-party documents provided by the family are not acceptable, the HACP will explain the reason to the family and request additional documentation.~~

~~The HACP will generally require six (6) pay stubs dated within the sixty (60) day period preceding the HACP appointment or request date on a missing information request letter. If six (6) pay stubs are not available, the HACP will require the maximum amount of pay stubs that the pay frequency will allow within the sixty (60) day period preceding the HACP appointment or letter request date. At a minimum, the HACP will require two (2) current and consecutive pay stubs dated within sixty (60) days (from the HACP appointment or letter request date) for determining annual income from wages. For new income sources or when two pay stubs are not available, the HACP will project income based on the information from a traditional written third-party verification form or the best available.~~

### **~~Written Third-Party Verification Form~~**

~~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.~~

~~The PHA may mail, fax, or e-mail third-party written verification form requests to third-party sources.~~

### **~~HACP Policy~~**

~~The HACP 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 HACP.~~

### **~~Oral Third-Party Verification [Notice PIH 2018-18]~~**

~~For third-party oral verification, the PHA 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 of ten (10) business days.~~

~~PHA will 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.~~

### **~~HACP Policy~~**

~~In collecting third-party oral verification, the HACP 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 HACP 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 2018-18]~~**

~~Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.~~

#### **HACP Policy**

~~If the family cannot provide original documents, the HACP 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 PHA to accept a self-certification from a family as verification of assets disposed of for less than fair market value as long as the original asset is verified at initial lease-up and a minimum of every three (3) years [PIH Notice 2016-05].~~

#### **HACP Policy**

~~The HACP will accept a self-certification from a family as verification of assets disposed of for less than fair market value if the asset was verified within the last three (3) years.~~

### **~~7.I.E. SELF-CERTIFICATION~~**

~~Self-certification, or "tenant declaration," is used as a last resort when PHA is unable to obtain third-party verification.~~

~~When PHA relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.~~

#### **HACP 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 HACP.~~

~~The HACP 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 HACP and must be signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a HACP representative or HACP notary public.~~

## PART II: VERIFYING FAMILY INFORMATION

### 7-II.A. VERIFICATION OF LEGAL IDENTITY

#### HACP Policy

The HACP 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
<ul style="list-style-type: none"><li>• Certificate of birth or naturalization papers</li><li>• Church issued baptismal certificate</li><li>• Current, valid driver's license or Department of Motor Vehicles identification card</li><li>• U.S. military discharge paperwork (DD 214)</li><li>• Current U.S. passport</li><li>• Current employer identification card</li><li>• Voter's registration card</li><li>• Company/agency identification cards</li><li>• Hospital identification records</li></ul>	<ul style="list-style-type: none"><li>• Certificate of birth</li><li>• Adoption papers</li><li>• Custody agreement</li><li>• Health and Human Services ID</li><li>• Certified school records</li><li>• <u>Hospital identification records</u></li></ul>

If a document submitted by a family is illegible for any reason or otherwise questionable, more than one (1) of these documents may be required.

If none of these documents can be provided and at the HACP'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 HACP and must be signed by the family member whose information or status is being verified ~~in the presence of a PHA representative or PHA notary public.~~

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the HACP has reason to doubt the identity of a person representing ~~him or herself~~ themselves to be a participant.

### 7-II.B. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and Notice PIH 2018-24]

The family must provide documentation of a valid Social Security Number (SSN) for each member of the household, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN. ~~Social security numbers must be verified only once during continuously assisted occupancy.~~

Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

The PHA must accept the following documentation as acceptable evidence of the social security number:

- An original SSN card issued by the Social Security Administration (SSA)
- An original SSA-issued document, which contains the name and SSN of the individual
- An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

While PHAs must attempt to gather third-party verification of SSNs prior to admission as listed above, PHAs also have the option of accepting a self-certification and a third-party document (such as a bank statement, utility or cell phone bill, or benefit letter) with the applicant's name printed on it to satisfy the SSN disclosure requirement if the PHA has exhausted all other attempts to obtain the required documentation. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available.

If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.

### **HACP Policy**

The HACP will verify an individual's SSN in the situations described above using the method described above as a last resort when no other forms of verification of the individual's SSN are available.

The PHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

### **HACP Policy**

The HACP 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 HACP within ninety (90) days.

In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within ninety (90) calendar days from the date of admission into the program. The PHA must grant one additional ninety (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.

### **HACP Policy**

The HACP will grant one additional ninety (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 HACP will terminate the individual's assistance.

### **Documentation Requirements**

The PHA must request the applicant and participant (including each member of the household), who are not exempt as stated in the previous paragraph, to provide documentation of each disclosed SSN.



~~Acceptable evidence of the SSN consists of~~

- ~~• 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; or~~
- ~~• An original document issued by a Federal, State, or local government agency, which contains the name and SSN of the individual.~~

### **HACP Policy**

~~The HACP will verify each disclosed SSN by:~~

- ~~• Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers~~
- ~~• Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder~~
- ~~• Once the individual's verification status is classified as "verified" in EIV, the HACP will destroy copies of documentation accepted as evidence of social security numbers by no later than the next reexamination.~~

~~The PHA may reject documentation of the SSN provided by the applicant or participant for only the following reasons:~~

- ~~• The document is not an original document; or~~
- ~~• The original document has been altered, mutilated, or is not legible; or~~
- ~~• The document appears to be a forged document (i.e., does not appear to be authentic).~~

### **HACP Policy**

~~The HACP will grant one additional thirty (30) 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, the HACP will terminate the individual's assistance.~~

~~Exceptions to this policy are listed below:~~

- ~~• In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within sixty (60) calendar days from the date of admission.~~

If an applicant family includes a child under six (6) years of age who joined the household within the 6 months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within ninety (90) days of the effective date of the initial HAP contract. A ninety (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.

## HACP Policy

The HACP will grant one additional ninety (90) day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by 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 six (6) years of age, or who is under the age of six (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 six (6) and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation prior to the child being added to the household. A ninety (90) day extension will be granted if the HACP 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 HACP is awaiting documentation of the SSN, the child will be not be counted as part of the assisted household.~~

Social security numbers must be verified only once during continuously assisted occupancy.

## HACP Policy

The HACP will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers
- Making a copy of the original documentation submitted, returning it to the individual, and retaining a copy in the file folder.

Once the individual's verification status is classified as "verified," the PHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

## HACP Policy

Once an individual's status is classified as "verified" in HUD's EIV system, the HACP will not remove and destroy copies of documentation accepted as evidence of social security numbers.

## **Individuals Without an Assigned SSN**

~~It is not uncommon for certain individuals to not have an SSA-assigned SSN. Below is a listing of such individuals, which is not all-inclusive:~~

- ~~• U.S. newborn children (eligible citizens — these individuals will be issued an SSN upon SSA confirmation of birth).~~
- ~~• Noncitizens lawfully present in the U.S. (ineligible noncitizens — these individuals will be issued an SSN upon SSA confirmation of the individual's DHS documentation or confirmation that the individual is required by law to provide an SSN to receive general assistance benefits that they already have qualified for).~~
- ~~• Noncitizens unlawfully present in the U.S. (ineligible noncitizens — typically, these individuals cannot be assigned an SSN).~~

~~PHAs are required to use the Public and Indian Housing Information Center (PIC) Tenant ID Management tool to generate a unique identifier (commonly referred to as an alternate ID (ALT ID) for those individuals who have not been assigned an SSN. Once an individual discloses an SSN, the PHA must use the Tenant ID Management tool to replace the ALT ID with the disclosed SSN within thirty (30) calendar days of receipt of the SSN.~~

### ~~Household Member Addition~~

~~When a participant requests to add a new household member who is at least six (6) years of age, or who is under the age of six (6) and has an SSN, to the family, the participant must disclose the SSA assigned SSN and provide the PHA with the documents referenced above at the time of the such request, or at the time of processing the interim or annual reexamination of family income and/or composition. If the family is unable to provide the required documentation of the SSN, the PHA shall not add the new household member to the family composition until the family provides such documentation.~~

~~When a participant requests to add a new household member who is under the age of six (6) and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within ninety (90) calendar days of the child being added to the household.~~

~~If the family is unable to disclose and provide evidence of the SSN within ninety (90) calendar days, the PHA is required to grant the family an additional ninety (90) day period to comply with the SSN disclosure and documentation requirements. The PHA is required to generate an ALT ID. Upon expiration of the provided period, the PHA must terminate the entire family's tenancy or assistance, or both.~~

### HACP Policy

~~The HACP will follow PIH Notice 2018-24 and any subsequent notices when adding a new household member including giving up to one hundred eighty (180) days for a family to disclose and document the SSN of a new household member who is under the age of six (6) and has not been assigned an SSN.~~

### ~~EHV Social Security Number Verification~~

~~PIH Notice 2021-15 permits PHAs to adopt policies to admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination.~~

### HACP Policy

~~The HACP will require EHV individuals to provide the required documentation within one hundred eighty (180) days of admission to be eligible for continued assistance, pending verification unless there is evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good faith effort to obtain the documentation. In this case, the HACP will provide a one-time thirty (30) day extension upon receipt of such evidence or confirmation.~~

## **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.

### HACP Policy

If an official record of birth or evidence of social security retirement benefits cannot be provided, the HACP 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. ~~A self-certification may also be requested.~~

Age must be verified only once during continuously-assisted occupancy.

### ~~EHV Eligibility Determination~~

~~PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available.~~

### HACP Policy

~~The HACP will accept self-certification of date of birth and disability status for EHV applicants if a higher level of verification is not immediately available. If self-certification is used, the HACP must obtain a higher level of verification within ninety (90) days of admission or verify the information on EIV.~~

## 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 Chapter 3, ~~Part I~~ of this document.

### HACP Policy

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. ~~The HACP will require that the head of household list each family member's relationship per the definitions in Chapter 3, Part I at the time of application and each time that it adds a new family member to the assisted household.~~ Certification by the head of household is normally sufficient verification of family relationships. If the HACP has reasonable doubts about the family relationship status, the HACP will review the identity documentation supplied and request any other relevant documentation as needed.

### **Marriage**

### HACP Policy

Certification by the head of household is normally sufficient verification. If the HACP has reasonable doubts about a marital relationship, the HACP will require the family to document the marriage.

A marriage certificate generally is required to verify that a couple is married.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

## Separation or Divorce

### HACP Policy

Certification by the head of household is normally sufficient verification. If HACP has reasonable doubts about a separation or divorce, HACP 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

### HACP Policy

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill). The HACP "Removing Adult Members (age 18 or older) from Participant Household" form may be submitted in lieu of other documentation.

## Foster Children and Foster Adults

### HACP 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

#### HACP Policy

The HACP requires families to provide information about the student status of all students who are eighteen (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~~their education.
- The family includes a student enrolled in an *institution of higher education*.

### Restrictions on Assistance to Students Enrolled in Institutions of Higher Education

This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

## HACP Policy

In accordance with the verification hierarchy described in Section 7-1.B, HACP will determine whether the student is exempt from the restrictions in 24 CFR 5.612 by verifying any one of the following exemption criteria:

- The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965 (see 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 HACP cannot verify at least one of these exemption criteria, the HACP will conclude that the student is subject to the restrictions on assistance at 24 CFR 5.612. In addition to verifying the student's income eligibility, HACP will then proceed to verify either the student's parents' income eligibility (see Section 7-III.J) or the student's independence from their parents (see below).

### ***Independent Student***

## HACP Policy

The HACP will verify a student's independence from their parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

- Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one (1) year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of *independent student* (see Section 3-II.E).
- ~~Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of independent student (see Section 3-II.E.) whether a parent has claimed the student as a dependent~~
- ~~R~~requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is \$0, except in cases in which the HACP determines that the student is a vulnerable youth (see Section 3-II.E);



## **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 CFR 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 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
- 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].

#### **HACP Policy**

For family members claiming disability who receive disability benefits from the SSA, the HACP 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 HACP will request a current [dated within the last sixty (60) days] SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), the HACP will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant or participant receives the benefit verification letter they will be required to provide a copy to the HACP.

### **Family Members Not Receiving SSA Disability Benefits**

Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603.

## HACP 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 meets the HUD definition.

### **EHV Eligibility Determination**

~~PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available.~~

## HACP Policy

~~The HACP will accept self-certification of date of birth and disability status for EHV applicants if a higher level of verification is not immediately available. If self-certification is used, the HACP must obtain a higher level of verification within ninety (90) days of admission or verify the information on EIV.~~

## **7-II.G. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5.508]**

### **Overview**

Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and 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 an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)].

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

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member eighteen (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.

## HACP Policy

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless the HACP receives information indicating that an individual's declaration may not be accurate.

### **Eligible Immigrants**

#### **Documents Required**

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

## **Documents Required**

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD- funded assistance. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

## **~~EHV Eligibility Determination~~**

~~PHI Notice 2021-15 permits PHAs to delay the receipt of documentation evidencing eligible noncitizen status and admit the family into the EHV program.~~

## **HACP Policy**

~~The HACP will require EHV individuals to provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification unless there is evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation. In this case, the HACP will provide a one-time thirty (30) day extension upon receipt of such evidence or confirmation.~~

## ***PHA Verification [HCV GB, pp. 5-3 and 5-7]***

For family members age sixty-two (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 sixty-two (62) who claim to be eligible immigrants, the PHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

## **HACP Policy**

The HACP will follow all USCIS protocols for verification of eligible immigration status via the USCIS SAVE website.

## **7-II.H. VERIFICATION OF PREFERENCE STATUS**

The PHA must verify any preferences claimed by an applicant that determined placement on the waiting list.

## **HACP Policy**

The HACP will offer a preference to any family that has been terminated from its HCV program due to insufficient program funding. The HACP will verify this preference using HACP's termination records.

The HACP also offers a preference for victims of domestic violence, dating violence, sexual assault, or stalking, or human trafficking as described in Section 4-III.C. To verify that applicants qualify for the preference, the HACP will follow documentation requirements outlined in Section 16-XI.D.

The HACP offers preferences described in Section 4-III.B.

The HACP may verify that the family qualifies for the working family preference based on the family's submission of the working member's most recent paycheck stub indicating that the working member works at least twenty (20) hours per week. The paycheck stub must have been issued to the working member within the last thirty (30) days.

The HACP may also seek third party verification from the employer of the head, spouse, co-head or sole member of a family requesting a preference as a working family.

Verification for elderly and disabled preference will be determined based upon section 7- II C and 7-II F, respectively.

## 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

##### HACP 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

##### HACP Policy

For wages other than tips, the family must provide originals of the two (2) most current, consecutive pay stubs.

### 7-III.B. BUSINESS AND SELF EMPLOYMENT INCOME

The PHA must obtain written, third-party verification when the income type is not available in EIV. This includes income from self-employment.

##### HACP 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 its accuracy.~~
- All schedules completed for filing federal and local taxes in the preceding year. Income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of transmittal from online source, etc.).
- If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

For self-employed individuals who claim they do not to file tax returns, The HACP will obtain a completed copy of IRS Form 4506-T to verify that no return has been filed.

For those employed in “gig employment” (i.e., those in formal agreements with on-demand companies such as Uber, Lyft, or DoorDash), the HACP will provide a format for the individual to declare their income and expenses. The HACP will also review the printed statement of monthly income from the applicable app for all hours worked and pay received as well as Schedule C of the individual’s tax return and the corresponding IRS Form 1099 or 1099k.

The HACP will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify its accuracy at all future reexaminations. At any reexamination the HACP 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 for less than three (3) months, the HACP 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 HACP 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 determination for fixed sources of income, please see Chapter 11.

#### **Social Security/SSI Benefits**

To ensure consistency in the determination of annual Social Security and SSI income, PHAs are required to use EIV-reported Social Security and SSI benefit amounts unless the tenant disputes the EIV-reported amount [Notice PIH 2018-24].

#### **HACP Policy**

~~To verify the SS/SSI benefits of applicants, the HACP 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 HACP will help the applicant request a benefit verification letter from SSA’s Web site at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. Once the applicant has received the benefit verification letter they will be required to provide it to the HACP.~~

~~To verify the SS/SSI benefits of participants, the HACP 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 HACP 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 HACP will help the participant request a benefit verification letter from SSA’s Web site at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. Once the participant has received the benefit verification letter they will be required to provide it to the HACP.~~

Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

For applicants, since EIV does not contain SS or SSI benefit information, the PHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last 120 calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the applicant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

For participants, the PHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

- If the participant agrees with the amount reported in EIV, the PHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as \$450.80 and EIV displays the amount as \$450.00. The PHA must use the EIV-reported amount unless the participant disputes the amount.
- If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, the PHA must request a current SSA benefit verification letter (dated within the last 60 calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, the PHA should help the participant request a benefit verification letter from SSA's website at [www.ssa.gov](http://www.ssa.gov) or ask the family to request one by calling SSA at 1-800-772-1213. The PHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

### 7-III.D. ALIMONY OR CHILD SUPPORT

Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but which they do not receive. For example, a family's child support or alimony income must be based on payments received, not the amounts to which the family is entitled by court or agency orders. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family.

#### HACP Policy:

The methods HACP 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:

- Copies of the receipts and/or payment stubs for ~~a minimum of sixty (60) days~~ **the twelve (12) months** prior to the HACP request



- Third-party verification form from the state or local child support enforcement agency
- Third-party verification form from the person paying the support
- Family's self- certification of amount received

~~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:~~

- ~~• Copies of the receipts and/or payment stubs for a up to one (1) year prior to the HACP request~~
- ~~• A statement from any agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts~~
- ~~• If the family 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. NONRECURRING INCOME [Notice PIH 2023-27]**

Income that will not be repeated beyond the coming year (i.e., the twelve (12) months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. PHAs may accept a self-certification from the family stating that the income will not be repeated in the coming year.

#### **HACP Policy**

The HACP will accept self-certification from the family stating that income will not be repeated in the coming year. However, the HACP may choose, on a case-by-case basis, to require third-party verification that income sources will not be repeated in the coming year.

### **7-III.F. ASSETS AND INCOME FROM ASSETS**

#### **Net Family Assets [24 CFR 5.603]**

At admission and reexam, for families with net assets totaling \$50,000 or less (adjusted annually), the PHA may, but is not required to, accept the family's self-certification that the family's assets do not exceed \$50,000 without taking any additional steps to verify the accuracy of the declaration. The declaration must include the amount of income the family expects to receive from assets which must be included in the family's income. This includes declaring income from checking and savings accounts which, although excluded from the calculation of net family assets (because the combined value of non-necessary personal property does not exceed \$50,000), may generate asset income. PHAs must clarify during the self-certification process which assets are included/excluded from net family assets.

For PHAs that choose to accept self-certification, the PHA is required to obtain third-party verification of all assets, regardless of the amount, at least once every three years.

PHAs who choose not to accept self-certifications of assets must verify all families' assets on an annual basis.

When net family assets have a total value over \$50,000, the PHA may not rely on the family's self-certification. Third-party verification of assets is required when net family assets exceed \$50,000, adjusted annually by HUD.

When verification of assets is required, PHAs are required to obtain a minimum of one (1) statement that reflects the current balance of banking/financial accounts.

### **HACP Policy**

For families with net assets totaling \$50,000 or less, the HACP will accept the family's self-certification of the value of family assets and anticipated asset income. All family members 18 years of age and older must sign the family's declaration. The HACP reserves the right to require additional verification in situations where the accuracy of the declaration is in question. Per HACP's MTW authority, any income the family expects to receive from assets will not be included in the family's annual income and the family will not be required to provide third-party verification of net family assets every three years.

When verification is required, in determining the value of checking or savings accounts, the HACP will use the current balance.

In determining the anticipated income from an interest-bearing checking or savings account when verification is required and the rate of return is known, the HACP will multiply the current balance of the account by the current rate of interest paid on the account. If a checking account does not bear interest, the anticipated income from the account is zero.

### **Self-Certification of Real Property Ownership [24 CFR 5.618(b)(2)]**

The PHA must determine whether a family has present ownership in real property that is suitable for occupancy for purposes of determining whether the family is compliant with the asset limitation described in Chapters 3 and 12. At admission and reexam, the PHA may accept a self-certification from the family that the family does not have any present ownership in any real property that is suitable for occupancy. If the family declares they have present ownership in real property, the PHA must obtain third-party verification.

### **HACP Policy**

Both at admission and reexam, the HACP will accept self-certification from the family that the family does not have any present ownership in any real property. The certification will state that the family does not have any present ownership interest in any real property and must be signed by all family members 18 years of age and older. The HACP reserves the right to require additional verification in situations where the accuracy of the declaration is in question.

If the family declares they have a present ownership in real property with a net asset value of \$50,000 or more, the HACP will obtain third-party verification of the following factors: whether the family has the legal right to reside in the property; whether the family has effective legal authority to sell the property; and whether the property is suitable for occupancy by the family as a residence. However, in cases where a family member is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the HACP will comply with confidentiality requirements under 24 CFR 5.2007 and will accept a self-certification.

### 7-III.G. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two (2) years. HUD permits PHAs to accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28]. The PHA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

#### HACP Policy

The HACP will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

The HACP will verify the value of assets disposed of only if:

- The total household asset value is over \$50,000, per MTW authority, and
- The HACP does not already have a reasonable estimation of its value from previously collected information, or ~~the~~
- The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination and the PHA verified this amount. Now the person reports that she has given this \$10,000 to her son. The PHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, the PHA will verify the value of this asset.

#### **~~Asset Verification~~**

~~In accordance with Notice PIH 2016-05 and 24 CFR §§982.516, the PHA must obtain third-party verification of all assets of any family: (1) Upon admitting a family (or new family member) to the HCV Program, (2) then again at least every 3 years thereafter.~~

#### **~~Verification of Assets of \$5,000 or More~~**

~~Where the family has net family assets in excess of \$5,000, the PHA must obtain supporting documentation (e.g. bank statements) from the family to confirm the assets.~~

#### **HACP Policy:**

~~The HACP will follow HUD's Verification Hierarchy (Notice PIH 2018-24), which includes third-party verification of all assets when the family has net assets in excess of \$5,000.~~

### **~~Family Declaration of Assets of Less than \$5,000 [24 CFR 982.516 & PIH Notice 2016-05]~~**

~~Except upon admitting a family (or new family member to the HCV program and at least every three (3) years thereafter, the PHA may accept a family's declaration that it has total net assets less than \$5,000, without taking additional steps to verify the accuracy of the declaration, or obtaining third party verification. If a family submits such a declaration then the PHA does not need to request supporting documentation (e.g., bank statements) to verify the assets or amount of income expected to be received from those assets. The family's declaration of total assets must show each asset and the amount of income expected from that asset. The total amount of the expected income from all assets must be less than or equal to \$5,000 and the PHA is required to have all family members age eighteen (18) and older sign the family's declaration of assets.~~

### **HACP Policy**

~~Since the HACP is a Moving to Work (MTW) agency and conducts biennial reexaminations, the HACP will verify assets at every biennial reexamination. If the family reports a new asset during an interim reexamination, the HACP will accept a family declaration of total net assets less than \$5,000 and will have the family fill out a HACP-created asset declaration form for such occasions.~~

## **7-III.~~PH~~. NET INCOME FROM RENTAL PROPERTY**

### **HACP 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 HACP will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

### **7-III.I. FEDERAL TAX REFUNDS OR REFUNDABLE TAX CREDITS [Notice PIH 2023-27]**

PHAs are not required to verify the amount of the family's federal tax refund or refundable tax credit(s) if the family's net assets are equal to or below \$50,000 (adjusted annually for inflation), even in years when full verification of assets is required or if the PHA does not accept self-certification of assets. PHAs must verify the amount of the family's federal tax refund or refundable tax credits if the family's net assets are greater than \$50,000.

### **7-III.GJ. RETIREMENT ACCOUNTS**

#### **HACP Policy**

The HACP will accept an original document from the entity holding the account dated no earlier than twelve (12) months before that reflects any distributions of the account balance, any lump sums taken, and any regular payments. ~~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 HACP 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 six (6) months from the effective date of the examination.*~~

~~*Upon retirement, the HACP 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 HACP will accept an original document from the entity holding the account dated no earlier than twelve (12) months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.*~~

### **7-III.HK. INCOME FROM EXCLUDED SOURCES [PIH Notice 2023-27]**

A detailed discussion of excluded income is provided in Chapter 6, Part I.

HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

For fully excluded income, the PHA is **not** required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the HUD-50058. *Fully excluded income* is defined as where the entire amount qualifies to be excluded from the annual income that is entirely excluded from the annual income determination in accordance with 24 CFR 5.609(b) and any Federal Register notice on mandatory exclusions issued by HUD (for example, food stamps, earned income of a minor, or foster care funds) ~~[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 HUD-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).

### HACP Policy

The HACP will accept the family's self-certification as verification of fully excluded income. The HACP may request additional documentation if necessary to document the income source.

The HACP will verify the source and amount of partially excluded income as described in Part 1 of this chapter

### **7-III.~~IL~~. ZERO (0) ANNUAL INCOME STATUS (as amended by MtW) INCOME REVIEWS** **[Notice PIH 2023-27]**

A zero income review is an assessment, sometimes periodic, performed by the PHA of the income of a family who claims that they do not receive income from any source, including from assets. During such reviews, it is common for PHAs to request that families complete and sign a worksheet explaining how they pay for the household's expenses. HUD does not require PHAs to conduct periodic zero income reviews. In calculating annual income, PHAs must not assign monetary value to nonmonetary in-kind donations from a food bank or similar organization received by the family [24 CFR § 5.609(b)(24)(vi)]. PHAs that perform zero income reviews must update local discretionary policies, procedures, and forms. Families who begin receiving income which does not trigger an interim reexamination should no longer be considered zero income even though the family's income is not reflected on the Form HUD-50058.

### HACP Policy

The HACP will check UIV sources and/or request information from third-party sources to verify that certain forms of income. Families claiming to have no annual income will be required to execute verification forms to determine that certain forms of income such as unemployment benefits, TANF, SS, SSI, and earnings are not being received by families claiming to have zero (0) annual income the household. The families on zero (0) income statuses will have an opportunity to request a hardship in case that the minimum rent requirement cannot be paid and, referred to the Family Self Sufficiency (FSS) REAL Program, and be evaluated every ninety (90) days.

The HACP will also require that each family member who claims zero (0) income status complete a zero (0) income form. If any sources of income are identified on the form, the HACP will verify the income in accordance with the policies in this chapter prior to including the income in the family's annual income.

The HACP will only conduct interims in accordance with PHA policy in Chapter 11.



### **7-III.~~JM~~. STUDENT FINANCIAL ASSISTANCE [~~Notice PHH 2015-21~~24 CFR 5.609(b)(9)]**

~~Any financial assistance, in excess of amounts received for tuition, fees, and other required charges that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of twenty-three (23) with dependent children or is residing with parents who are seeking or receiving HCV assistance [24 CFR 5.609(b)(9) and FR 4/10/06].~~

~~For students over the age of twenty-three (23) with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income [24 CFR 5.609(c)(6)]. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education (as defined in Exhibit 3-2). Excluded amounts are verified only if, without verification, PHA would not be able to determine whether or to what extent the income is to be excluded (see Section 7-III.H).~~

#### **HACP Policy**

~~For a student subject to having a portion of theirhis/her student financial assistance included in annual income in accordance with 24 CFR 5.609(b)(9), the HACP 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 HACP will request written verification of the student's tuition amount.~~

~~The regulations under HOTMA distinguish between two (2) categories of student financial assistance paid to both full-time and part-time students. Any assistance to students under section 479B of the Higher Education Act of 1965 (Title IV of the HEA) must be excluded from the family's annual income [24 CFR 5.609(b)(9)(i)]. Any other grant-in-aid, scholarship, or other assistance amounts an individual receives for the actual covered costs charged by the institute of higher education not otherwise excluded by the federally mandated income exclusions are excluded [24 CFR 5.609(b)(9)(ii)].~~

#### **HACP Policy**

~~The HACP will request written third-party verification of both the source and the amount of student financial assistance. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.~~

~~In addition, unless the student's only source of assistance is assistance under Title IV of the HEA, the HACP will request written verification of the cost of the student's tuition, books, supplies, room and board, and other required fees and charges to the student from the educational institution.~~

If the HACP is unable to obtain third-party written verification of the requested information, the HACP will pursue other forms of verification following the verification hierarchy in Section 7-I.B.

### **7-III.~~KN~~. PARENTAL INCOME OF STUDENTS SUBJECT TO ELIGIBILITY RESTRICTIONS**

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from their his or her parents or a vulnerable youth in accordance with PHA Policy [24 CFR 5.612, ~~and~~ FR 4/10/06, p. 18146, and FR Notice 9/21/16].

This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

#### **HACP Policy**

If the HACP is required to determine the income eligibility of a student's parents, the HACP will request an income declaration and certification of income from the appropriate parent(s) (as determined in Section 3-II.E). The HACP 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 HACP. The required information must be submitted (postmarked) within ten (10) business days of the date of the HACP's request or within any extended timeframe approved by the HACP.

The HACP 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 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. 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. HEALTH AND MEDICAL CARE EXPENSE DEDUCTION

Policies related to medical expenses are found in 6-~~H.D~~Chapter 6. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed health and medical care expenses. The PHA may not request documentation beyond what is sufficient to determine anticipated health and medical care costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

### Amount of Expense

#### HACP Policy

~~The HACP will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The HACP will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming twelve (12) months.~~

Medical expenses will be verified through:

- Written third-party documents provided by the family, such as pharmacy printouts or receipts.
- The HACP will make a best effort to determine what expenses from the past are likely to continue to occur in the future. The HACP will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming twelve (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 twelve (12) months.

Before placing bills and documentation in the tenant file, the HACP will redact all personally identifiable information.

If the HACP receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the HACP will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the HACP will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will HACP include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

In addition, 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.
- ~~The head of household must be sixty-two (62) or older or a person with disabilities.~~

## Eligible Household

The health and medical care expense deduction is permitted only for households in which the head, spouse, or co-head is at least sixty-two (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 health and medical care expenses deduction, the costs must qualify as medical expenses. See Chapter 6 (6-II.D.) for PHA's policy on what counts as a medical expense.

## Unreimbursed Expenses

To be eligible for the health and medical care expenses deduction, the costs must not be reimbursed by another source.

### HACP 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

### HACP Policy

When anticipated costs are related to ongoing payment of medical bills incurred in past years, the HACP will verify:

- The anticipated repayment schedule,
- The amounts paid in the past, and
- Whether the amounts to be repaid have been deducted from the family's annual income in past years.

## 7-IV.C. DISABILITY ASSISTANCE EXPENSES

~~The deduction is permitted for unreimbursed reasonable attendant care and auxiliary apparatus expenses for each family member 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.~~ Policies related to disability assistance expenses are found in 6-II.E. The amount of the deduction will be verified following the standard verification procedures described in Part I.

The PHA must comply with the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. 104-191, 110 Stat. 1936) and the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896) when requesting documentation to determine unreimbursed auxiliary apparatus or attendance care costs. The PHA may not request documentation beyond what is sufficient to determine anticipated reasonable attendant care and auxiliary apparatus costs. Before placing bills and documentation in the tenant file, the PHA must redact all personally identifiable information [FR Notice 2/14/23].

## Amount of Expense [24 CFR 5.611(a)(3)]

~~The disability assistance deduction is applicable to the extent that it exceeds three percent of the family's annual income. In addition, this deduction may not exceed the earned income received by the family members who are eighteen (18) years of age or older and who are able to work because of such attendant care or auxiliary apparatus.~~

### *Attendant Care*

#### HACP Policy

~~The HACP will accept written third-party documents provided by the family.~~

~~If family-provided documents are not available, the HACP 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 twelve (12) months

Before placing bills and documentation in the tenant file, the PHA will redact all personally identifiable information.

If the PHA receives documentation from a verification source that contains the individual's specific diagnosis, information regarding the individual's treatment, and/or information regarding the nature or severity of the person's disability, the PHA will immediately dispose of this confidential information; this information will never be maintained in the individual's file. If the information needs to be disposed of, the PHA will note in the individual's file that verification was received, the date received, and the name and address of the person/organization that provided the verification. Under no circumstances will PHA include an applicant's or resident's medical records in the file [Notice PIH 2010-26].

### *Auxiliary Apparatus*

#### HACP 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 twelve (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 twelve (12) months

In addition, the HACP 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.Chapter 6~~).
- The expense is not reimbursed from another source (as described in ~~6-II.E.Chapter 6~~).

### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. 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.

#### **HACP Policy**

The HACP 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.Chapter 6~~). The family may provide this documentation.

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.

#### **HACP Policy**

~~An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.~~

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

## **7-IV.D. CHILDCARE EXPENSES**

Policies related to childcare expenses are found in Chapter 6 (~~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.

### **HACP 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.

### **HACP Policy**

#### ***Information to be Gathered***

The HACP 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 HACP will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases, the HACP 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 HACP any reports provided to the other agency.

In the event third-party verification is not available, the HACP will provide the family with a form on which the family member must record job search efforts. The HACP will review this information at each subsequent reexamination for which this deduction is claimed.

#### ***Furthering Education***

The HACP 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 HACP 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 family may provide the documentation.

## **Allowable Type of Childcare**

The type of care to be provided is determined by the family, but must fall within certain guidelines, as discussed in Chapter 6.

### **HACP Policy**

The HACP will verify that the type of childcare selected by the family is allowable, as described in Chapter 6 ~~(6-H.F.)~~.

The HACP will verify that the fees paid to the childcare provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

The HACP 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.

### **HACP Policy**

The actual costs the family incurs will be compared with the HACP'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 HACP will request additional documentation, as required, to support a determination that the higher cost is appropriate.

## EXHIBIT 7-1: SUMMARY OF DOCUMENTATION REQUIREMENTS FOR NONCITIZENS [HCV GB, PP. 5-9 AND 5-10]

- All noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.
- Except for persons 62 or older, all noncitizens must sign a verification consent form.
- Additional documents are required based upon the person's status.

### ELDERLY NONCITIZENS

- A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.

### ALL OTHER NONCITIZENS

- Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>• <u>Form I-551 Alien Registration Receipt Card (for permanent resident aliens)</u></li> <li>• <u>Form I-94 Arrival-Departure Record annotated with one of the following:</u> <ul style="list-style-type: none"> <li>• <u>“Admitted as a Refugee Pursuant to Section 207”</u></li> <li>• <u>“Section 208” or “Asylum”</u></li> <li>• <u>“Section 243(h)” or “Deportation stayed by Attorney General”</u></li> <li>• <u>“Paroled Pursuant to Section 221 (d)(5) of the USCIS”</u></li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• <u>Form I-94 Arrival-Departure Record with no annotation accompanied by:</u> <ul style="list-style-type: none"> <li>• <u>A final court decision granting asylum (but only if no appeal is taken);</u></li> <li>• <u>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);</u></li> <li>• <u>A court decision granting withholding of deportation; or</u></li> <li>• <u>A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</u></li> </ul> </li> </ul> |
|--|---|

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• <u>Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.</u></li> </ul> | <ul style="list-style-type: none"> <li>• <u>Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.</u></li> </ul> |
|---|---|
- A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or
  - Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the *Federal Register*

## CHAPTER 8: HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS [24 CFR 982 SUBPART I AND 24 CFR 982.507]

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### INTRODUCTION

HUD requires that all units occupied by families receiving Housing Choice Voucher (HCV) assistance meet HUD's Housing Quality Standards (HQS) and permits the PHA to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and PHA-established requirements.

All units must pass an HQS inspection prior to the approval of a lease and at least annually during the term of the contract. 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.

This chapter explains HUD and PHA requirements related to housing quality and rent reasonableness as follows:

Part I. Physical Standards. This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference. It also identifies life-threatening conditions that must be addressed on an expedited basis.

Part II. The Inspection Process. This part describes the types of inspections the PHA will make and the steps that will be taken when units do not meet HQS.

Part III. Rent Reasonableness Determinations. This part discusses the policies the PHA will use to make rent reasonableness determinations.

Special HQS requirements for homeownership, manufactured homes, and other special housing types are discussed in Chapter 15 to the extent that they apply in this jurisdiction.

## PART I: PHYSICAL STANDARDS

### 8-I.A. GENERAL HUD REQUIREMENTS

#### HUD Performance and Acceptability Standards

HUD's performance and acceptability standards for HCV-assisted housing are provided in 24 CFR 982.401. These standards cover the following areas:

- Sanitary Facilities
- Food Preparation and Refuse Disposal
- Space and Security
- Thermal Environment Supply
- Illumination and electricity
- Water Supply
- Lead-Based Paint
- Structure and Materials
- Site and Neighborhood
- Sanitary Conditions
- Access
- Indoor Air Quality
- Smoke Detectors
- Water Supply

A summary of HUD performance criteria is provided in Exhibit 8-1. Additional guidance on these requirements is found in the following HUD resources:

- Housing Choice Voucher Guidebook, Chapter 10.
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)
- HUD Notice 2003-31, Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968 and the Fair Housing Act of 1988.

#### Tenant Preference Items

HUD requires the PHA to enforce minimum HQS but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, the PHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable. Exhibit 8-2 summarizes those items that are considered tenant preferences.

#### Modifications to Provide Accessibility

Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained. [24 CFR 100.203; Notice 2003-31].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG) [28 CFR 35.151(c) and Notice 2003-31] See Chapter 2 of this plan for additional information on reasonable accommodations for persons with disabilities.

### HACP Policy

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to HACP for review.

## **8-I.B. ADDITIONAL LOCAL REQUIREMENTS**

The PHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards [24 CFR 982.401(a)(4)].

### Thermal Environment [HCV GB p.10-7]

The PHA 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.

### HACP Policy

The heating system must be capable of maintaining an interior temperature of sixty-five (65) degrees Fahrenheit between October 1 and May 1 and a temperature of seventy (70) degrees when elderly individuals or children are included in the household.

### Clarification of HUD Requirements

### HACP Policy

As permitted by HUD, the HACP has adopted the following specific requirements that elaborate on HUD standards.

### HACP Policy

~~The HACP will impose the additional quality standards listed below:~~

## **1. General**

- 1.1. All repairs to noted deficiencies must meet industry standard for being a reasonable and/or appropriate repair. If City Code has been modified and a unit is currently being subsidized, the old code will be grandfathered until such time a Request for Tenancy Approval is submitted for the same unit. At that point, all new City Codes will be applicable. In each room used for living/sleeping, there will be at least one exterior window that can be opened. In units where the tenant must pay for utilities, each unit must have separate metering device(s) for measuring utility consumption and direct billing by the utility service provider.

## **2. Electrical**

- 2.1. Each dwelling unit must possess an electrical service and fuse/breaker box rated at a minimum of one hundred (100) amps



- 2.2. Electrical outlets must be installed in a manner that is safe. Outlets located in a floor are prohibited.

### **3. Fuel Supply Lines**

- 3.1. Gas supply lines for hot water tanks must be of rigid construction or approved appliance- type coated flexible lines. Flexible copper lines are not permitted.
- 3.2. Fuel supply lines for furnaces/boilers must be of rigid construction. Approved appliance- type coated flexible lines can be used for these components where fueled by natural gas. Flexible copper lines are not permitted.

### **4. Heating and Plumbing**

- 4.1. All temperature/pressure relief valves shall have rigid discharge lines such as copper, iron, or CPVC-rated pipe. This discharge line shall be the same diameter as the relief valve outlet.
- 4.2. A ¾" overflow pipe must be present on the hot water heater safety valves and installed down to within six (6) inches of the floor.

### **5. Smoke Detectors**

- 5.1. All HCV families are required to maintain charged batteries in all required smoke detectors that use batteries for either a primary or a secondary source of power.
- 5.2. Prior to the family initially taking occupancy, the owner must supply at least one fully operational smoke detector on each floor of the assisted unit and one on each floor of a common hallway or stairwell.

### **6. Fire Exits**

- 6.1. The HACP will enforce the City of Pittsburgh, bureau of Fire Department's codes concerning fire exits.

### **7. Painted Surfaces**

- 7.1. All painted interior and exterior surfaces to the primary dwelling and those of an outbuilding, or exterior component such as a handrail located on the property of the primary dwelling, must be free of defective paint as defined in 24 CFR 982(j)(2). Such defective surfaces conditions shall be treated in accordance with 24 CFR 982.411(b)
- 7.2. Owners will be required to properly treat peeling paint in accordance to Lead Safe Work Practices and repaint all surfaces cited for peeling paint with 2 coats of non-lead paint. An extension may be granted as a severe weather related item as defined below.

### **8. Roofs and Drainage**

- 8.1. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portions of the structure.
- 8.2. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstruction.
- 8.3. Roof water shall not be discharged in a manner that creates a hazard.

## **9. Windows**

- 9.1. Where an operable window is required, such window shall be easily operable and capable of being held in position by the originally designed window hardware. Modifications to a window, for the purposes of acceptability, can be approved at the sole discretion of HACP.
- 9.2. Windows that did not originally employ window hardware to hold the sash in place when opened shall use other means from safe operation on the window such as the installation of window controls.
- 9.3. Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced.
- 9.4. 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)

## **10. Privacy**

- 10.1. Bathrooms shall have an operable entrance door. Efficiency apartments are exempt.
- 10.2. Bathrooms shall have an operable door that locks for privacy.

## **11. Bedrooms**

- 11.1. Every room occupied for sleeping purposes shall contain at least seventy (70) square feet of floor area. The HACP has the sole discretion to deviate from this requirement where a family may not otherwise be housed.

## **12. Occupancy permits for mixed-use buildings**

- 12.1. When a HCV unit is within a structure containing a business or commercial unit, the structure must possess an approved occupancy permit form the City of Pittsburgh Bureau of Building Inspection that indicates such approved business/commercial and residential uses.
- 12.2. Where window security bars are present in rooms used for living/sleeping, there must be at least one release mechanism in good working order in each room. Owners will be referred to the City of Pittsburgh's Fire Prevention Bureau for additional requirements and further guidance.

## **13. Walls**

- 13.1. In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced.

## **14. Doors**

- 14.1. 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.
- 14.2. All interior doors must have no holes, have all trim intact, and be openable without the use of a key.

## 15. Floors

- 15.1. All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be secured and made level. If they cannot be leveled, they must be replaced.
- 15.2. All floors must be in a finished state. Raw wood or unsealed concrete is not permitted.
- 15.3. All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted.

## 16. Sinks

- 16.1. All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.
- ~~16.2. All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.~~
- ~~16.3.~~16.2. All sinks must have functioning stoppers.

## 17. Toilets

- 17.1. All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly.

## ~~17.18.~~ Security

- ~~17.1.~~18.1. If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner is responsible for ensuring that the family is instructed on the use of the quick release system.

## 8-I.C. LIFE-THREATENING CONDITIONS [24 CFR 982.404(a)]

HUD requires the PHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within twenty-four (24) hours of PHA notification.

### HACP Policy

The following are considered life-threatening conditions:

- Any condition that jeopardizes the security of the unit
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling
- Natural or LP gas or fuel oil leaks
  - 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
  - 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 sixty (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
- 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 vent
  - 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
  - A non-vented space heater is present
  - Safety devices on a fuel-fired space heater are missing or damaged

- o The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas

- Deteriorating paint as defined at 24 CFR 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

If an owner fails to correct life-threatening conditions as required by the HACP, the HACP will enforce the HQS in accordance with HUD requirements. See 8-II-G.

If a family fails to correct a family-caused life-threatening condition as required by the HACP, the HACP will enforce the family obligations. See 8-II.H.

The owner will be required to repair an inoperable smoke detector unless the HACP determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within twenty-four (24) hours.

## **8-I.D. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]**

### **Family Responsibilities**

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service
- Failure to provide or maintain appliances owned by the family
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

### **Owner Responsibilities**

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

## **8-I.E. SPECIAL LEAD SAFE HOUSING RULE (LSHR) REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL (EBLL) [24 CFR 35.1225; FR Notice 1/13/17; & PHH NOTICE PHH 2017-13]**

If a PHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than six (6) years of age, living in an HCV-assisted unit has been identified as having an Elevated Blood Lead Level (EBLL), the PHA must complete an environmental investigation of the dwelling unit within fifteen (15) calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within thirty (30) days after receiving the environmental investigation report from the PHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330; 40 CFR 745.227]. If the owner does not complete the “hazard reduction” as required, the dwelling unit is in violation of HQS, and the PHA will take action in accordance with Section 8-II.G.

the PHA shall:-

- ~~• Immediately verify the EBLL case with the public health department or other medical health care provider, if it originated from another source.~~
- ~~• Conduct an Environmental Investigation (EI) of the child’s unit and the common areas servicing that unit in accordance with Chapter 16 of the HUD *Guidelines for Evaluation and Control of Lead-Based Paint Hazards in Housing*. If lead-based paint hazards are found in the child’s unit (the index unit) in a multiunit property, risk assessments must be conducted in other covered units, i.e., assisted units with a child under age six (6) and the common areas servicing those units.~~
- ~~• Monitor the owner’s compliance with the Lead Safe Housing Rule (LSHR) in accordance with the Housing Assistance Payments (HAP) contract between the PHA and the owner. PHAs must perform this oversight inspection in conjunction with periodic Housing Quality Standard (HQS) inspections at least annually if there was deteriorated paint or known lead-based paint hazards identified in the child’s unit or common areas servicing that unit.~~
- ~~• Ensure the owner completes all LBP hazard control/reduction work and achieves clearance for all lead-based paint hazards identified in the EI report of the index unit and the common areas servicing that unit. The index unit LBP hazard control work and clearance must be completed within thirty (30) calendar days of the owner’s receipt of the EI report. Also, the LBP hazard control work must be completed by a certified LBP abatement firm or certified lead renovation firm, and the clearance examination must be completed by an independently certified risk assessor or a trained dust sampling technician working under a risk assessor.~~

### HACP Policy

~~The HACP will comply with all PHA LSHR requirements outlined in PIH Notice 2017-13 and any other forthcoming regulations or guidance regarding LSHR. Compliance includes, but is not limited to; verification of all EBLL cases that do not originate from a medical provider, notifying the public health department when the owner is notified by any other medical care professional of the EBLL case; monitoring and assisting the owner, as necessary, in reporting all verified EBLL cases by email to the HUD Pittsburgh Field Office (PittsburghPIH@hud.gov) and U.S. Department of Housing and Urban Development (HUD) Office of Lead Hazard Control and Healthy Homes (OLHCHH) (LeadRegulations@hud.gov) within five (5) business days.~~

~~The HACP will request a copy of the Environmental Investigation (EI) or lead hazard evaluation report from the local health department. If the HACP does not receive an EI or lead hazard evaluation from the health department, the HACP will then conduct the Environmental Investigation (EI) within fifteen (15) calendar days from being notified of a verified EBLL case, ensure that a certified Lead-Based Paint Risk Assessor performs the investigation, and notify the Pittsburgh HUD Field Office of the investigation’s results within ten (10) business days and the family within fifteen (15) calendar days.~~



~~Through regular HQS inspections, the HACP will monitor the owner's progress in clearing control of lead-based paint hazards as well as ongoing compliance with LSHR through its regularly scheduled HQS inspections as well as special inspections as needed. Additionally, the HACP will ensure the owner provides the required notification to the index unit and other covered unit residents regarding lead evaluations and hazard control activities in accordance with LSHR.~~

### ~~Owner Lead Safe Housing Rule (LSHR) Responsibilities (PHH Notice 2017-13)~~

~~For units, when a child under 6 is identified with an EBLL, the owner, as described below, is also a designated party responsible for complying with LSHR:~~

- ~~• The owner is required to notify HUD (Pittsburgh Field Office & OLHCHH) and the local public health department (when cases originated by any other medical/health care provider) of confirmed EBLL cases.~~
- ~~• In a multi-unit property, the owner is responsible for communicating all EBLL cases to the PHA for verification.~~
- ~~• The owner is responsible for notifying other residents affected and conducting risk assessments in the other covered units.~~
- ~~• The owner is required to complete reduction and achieve clearance for control of all lead-based paint hazards identified in the index unit's EI report and those identified in risk assessments for any other covered units, if applicable, in compliance with LSHR regulations [24 CFR 35.1325 and 35.1330].~~
- ~~• The owner is required to conduct and comply with ongoing LSHR maintenance.~~

### HACP Policy

~~As the regulations identify the PHA as the designated party for ensuring compliance with all the Lead Safe Housing Rule (LSHR) regulations, the HACP will provide guidance and assistance, when necessary, to owners who encounter EBLL cases. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and the HACP will take action in accordance with Section 8 II.G.~~

The PHA reporting requirements, and data collection and record-keeping responsibilities related to children with an EBLL are discussed in Chapter 16.

## 8-I.F. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.401, 24 CFR 982.403]

### A dwelling unit must:

- Provide adequate space and security for the family
- Have at least one (1) bedroom or living/sleeping room for each two (2) persons

A unit that does not meet these HQS space standards is defined as *overcrowded*.

A living room may be used as a sleeping (bedroom) space, but no more than two (2) persons may occupy the space [HCV GB p. 10-6]. A bedroom or living/sleeping room must have at least:

- One (1) window
- Two (2) electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one (1) of the required electrical outlets)

If the PHA determines that a unit does not meet the HQS space standards because of an increase in family size or a change in family composition, the PHA must issue the family a new voucher, and the family and the PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the HAP contract in accordance with its terms.

## 8-I.G. CARBON MONOXIDE DETECTOR COMPLIANCE

### HACP Policy

The HACP HQS inspectors follow the requirements of PIH Notice 2022-01 and the City of Pittsburgh fire code for non-commercial powered existing residential units. The code requires at least one battery-operated Carbon Monoxide (CO) detector present and functioning within fifteen (15) feet of every room used for sleeping and every source of CO, including furnaces and boilers. The HACP HQS inspectors test each CO detector and report any violations to the City of Pittsburgh code on all initial, annual, and complaint inspections. The unit will fail HQS inspection and the owner will have the standard thirty (30) days to make any repairs to the CO detectors.

## PART II: THE INSPECTION PROCESS

### 8-II.A. OVERVIEW [24 CFR 982.405]

#### Types of Inspections

The PHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

- *Initial Inspections.* The PHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program. The unit must pass the HQS inspection on or before the effective date of the HAP Contract.
  - **Pre-Inspections:** Landlords will be able to schedule inspections prior to finding a HCV participant. This process will allow for new landlords to determine if a potential unit is viable under the Housing Quality Standards (HQS) as well as decreasing the lead time between initial submission of the Request for Tenancy Approval (RFTA) and lease up.
    - i. If the unit fails the inspection, the landlord is made aware of the deficiency and can move forward with the necessary repairs. The landlord would still need to achieve a passing score to move forward in the process.
    - ii. If the unit passes the inspection, then the unit is deemed satisfactory for ninety (90) days and any Request for Tenancy Approval (RFTA) submitted in that time frame can move forward in the leasing processes without an additional inspection, including for the EHV program, per the waiver approval that the HACP received from HUD. If a RFTA is not submitted within the ninety (90) day period, the unit and the passing score becomes void and a new inspection will be required prior to the HACP approval.

- *Annual Inspections.* HUD requires the PHA to inspect each unit under lease at least annually or biennially, depending on PHA policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's biennial or 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 HQS.~~
  - ~~*Alternative (Enhanced) Inspections.* In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See the chapter on HQS Inspections for a full discussion of the HQS standards, as well as the process for HQS or alternative inspections.~~

### **Inspection of PHA-Owned Units [24 CFR 982.352(b)]**

The PHA must obtain the services of an independent entity to perform all HQS 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**

The PHA may not charge the family ~~or owner~~ for unit inspections or re-inspections [24 CFR 982.405(e)]. In the case of inspections of PHA-owned units, the PHA may compensate the independent agency from ongoing administrative fee for inspections performed. The PHA and the independent agency may not charge the family any fee or charge for the inspection [24 CFR.982.352(b)].

The PHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the PHA may charge a reasonable fee to owners for ~~reinspections~~reinspections in two (2) situations: when the owner notifies the PHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access s to the unit, or for new deficiencies discovered during a ~~resinspection~~reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to the PHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

### **HACP Policy**

The HACP will not charge a fee for failed reinspections.

### Remote Video Inspection (RVIs) [Notice PIHn 2020-31]

As an alternative to some or all on-site inspections, the PHA may, but is not required to, perform HQS inspections from a remote location using video streaming technology and a proxy at the inspection site. Since there may be some circumstances in which the application of technology provides insufficient information or evidence to allow the PHA to make appropriate determinations about whether a condition violates HQS, Notice PIH 2020-31 requires that if a PHA chooses to implement RVIs, the PHA should have policies and procedures in place to address such limitations.

### HACP Policy

The HACP will not conduct any HQS inspection using RVI.

### **Notice and Scheduling**

The family must allow the PHA to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)].

### HACP 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 not less than forty-eight (48) hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, the HACP will give as much notice as possible, given the nature of the emergency.

### **Owner and Family Inspection Attendance**

HUD permits the PHA to set policy regarding family and owner presence at the time of inspection [HCV GB p. 10-27].

### HACP Policy

When a family occupies the unit at the time of inspection, an authorized adult must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

### **8-II.B. INITIAL HQS INSPECTION [24 CFR 982.401(a)]**

### Initial Inspections [FR Notice 1/18/17]

The PHA may, but is not required to, approve assisted tenancy and start HAP if the unit fails HQS inspection, but only if the deficiencies identified are non-life-threatening. Further, the PHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last twenty-four (24) months.

## **HACP Policy**

The unit must pass the HQS inspection on or before the effective date of the HAP contract.

The HACP will not rely on alternative inspections and will conduct an HQS inspection for each unit prior to executing a HAP contract with the owner. However, Through its Moving to Work (MTW) authority, the HACP has established and HUD has approved a more stringent inspection type(s) to qualify for an alternative payment standards. Specifically, to receive the Rehabilitation Payment Standard, the owner must request an inspection using the International Property Maintenance Code standards.

## **Timing of Initial Inspections for Tenant-Based Voucher Assistance**

~~HUD requires the unit to pass HQS before the effective date of the lease and HAP Contract.~~ HUD requires PHAs with fewer than 1,250 budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within fifteen (15) days of submission of the Request for Tenancy Approval (RFTA). For PHAs with 1,250 or more budgeted units, ~~such inspection and determination must be completed within a reasonable time after the family submits a request for approval of the tenancy. To~~ the extent practicable such inspection and determination must be completed within fifteen (15) days after the family and the owner submit a Request for Tenancy Approval (RFTA). The fifteen (15) day period is suspended for any period during which the unit is not available for inspection [982.305(b)(2)].

## **HACP Policy**

If a unit passes pre-inspection within ninety (90) calendar days of date that the HACP received the Request for Tenancy Approval (RFTA), including EHV units per a HUD-approved waiver request to use this MTW implemented activity, the HACP will use the pre-inspection for the initial HQS inspection. If no pre-inspection was conducted, the Request for Tenancy Approval (RFTA) was not received by the HACP within ninety (90) calendar days of pre-inspection pass date, or the unit failed pre-inspection, the HACP will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within fifteen (15) days of submission of the Request for Tenancy Approval (RFTA). If the HACP determines that additional information is needed from the family or owner to process the Request for Tenancy Approval (RFTA), the HACP will request the information in writing. The family or owner will have ten (10) days to supply the requested information, or the Request for Tenancy Approval (RFTA) will be voided and the family or owner will have to submit a new Request for Tenancy Approval (RFTA).

## **Inspection Results and Re-Inspections**

### **HACP Policy**

If any HQS violations are identified, the owner will be notified of the deficiencies and be given a time frame to correct them. If requested by the owner, the time frame for correcting the deficiencies may be extended by HACP for good cause. The HACP will re-inspect the unit within ten (10) business days of the date the owner notifies the HACP that the required corrections have been made.

If the time period for correcting the deficiencies (or any HACP-approved extension) has elapsed, or the unit fails HQS at the time of the re-inspection, the HACP will notify the owner and the family that the unit has been rejected and that the family must search for another unit. The HACP 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 after the owner has made repairs, if they are unable to locate another suitable unit.

In the event of the unit passing HQS inspection, the resulting new contract start date may be no later than sixty (60) calendar days past the date of the passed initial inspection. If the contract is not processed within that time frame, the unit must be re-inspected.

### 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.

### HACP Policy

If utility service is not available for testing at the time of the initial inspection, the HACP will fail the HQS inspection. The HACP will execute the HAP contract based upon a certification from the family and owner that the utilities have been placed in service and are working.

### Appliances [Form HUD-52580]

### HACP Policy

If the family is responsible for supplying the stove and/or refrigerator, the HACP will allow the stove and refrigerator to be placed in the unit after the unit has met all other HQS requirements. The required appliances must be in place before the HAP contract is executed by the HACP. The HACP will execute the HAP contract based upon a certification from the family that the appliances have been installed and are working. A confirmatory inspection will be scheduled within thirty (30) days of HAP contract approval.

## **8-II.C. BIENNIAL/ANNUAL HQS INSPECTIONS [24 CFR 982.405(a), ~~as amended by MTW~~ and 982.406; Notice PIH 2016-05]**

### HACP Policy

Each unit under HAP contract must be inspected biennially within twenty-four (24) months of the last full HQS inspection. The HACP reserves the right to require annual inspections of any unit or owner at any time.

The HACP will not rely on alternative inspection standards. However, ~~Through~~ its Moving to Work (MTW) authority, the HACP has established and HUD has approved a more stringent inspection type(s) to qualify for an alternative payment standards. Specifically, to receive the Rehabilitation Payment Standard, the owner must request an inspection using the International Property Maintenance Code standards.

### Scheduling the Inspection

The PHA must inspect the unit leased to a family prior to the initial term of the lease, at least biennially during assisted occupancy, and at other times as needed, to determine if the unit meets the HQS.



## HACP Policy

The HACP will generally conduct annual HQS inspections, and barring any unforeseen circumstances, at minimum, conduct biennial HQS inspections during the term of the assisted tenancy. Owners participating in the HACP's Preferred Owners Program who have passed annual inspection on the first inspection for the past three (3) consecutive years will be moved to biennial inspections. If a future inspection results in a fail, the owner will be removed from the Preferred Owners Program and will return to an annual inspection schedule. The HACP also conducts interim and quality control inspections as scheduled during the term of the tenancy and these inspections would not count towards the total number of passes required to move Preferred Owners to the biennial schedule.

If an authorized adult cannot be present on the scheduled date, the family should request that the HACP reschedules the inspection. The HACP and family will agree on a new inspection date that generally should take place within five (5) business days of the originally scheduled date. The HACP may schedule an inspection more than five (5) business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the HACP will automatically schedule a second inspection. If the family misses two scheduled inspections without HACP approval, the HACP will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12.

### **8-II.D. SPECIAL INSPECTIONS [~~HCV GB, p. 10-30~~24 CFR 982.405(g)]**

~~PHA will conduct a special inspection if the owner, family, or another source reports HQS violations in the unit.~~ If a participant or government official reports a life-threatening condition which the owner would be required to repair within twenty-four (24) hours, the PHA must inspect the unit within twenty-four (24) hours of notification. If the reported condition is not life-threatening, the PHA must inspect the unit within fifteen (15) days of notification.

## HACP Policy

During a special inspection, the HACP generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the biennial/annual inspection has been scheduled or is due within ninety (90) days of the date the special inspection is scheduled the HACP may elect to conduct a full biennial/annual inspection.

### **8-II.E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b); 24 CFR 985.3(e), HCV GB, p. 10-32]**

HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

The unit sample must include only units that have been inspected within the preceding three (3) months. The selected sample ~~should be drawn to represent 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 and the work of a cross section of inspectors.

~~The Quality Control Inspections will include 10% of each month's total of initial, biennial/annual and compliant inspections.~~

## **8-II.F. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT**

### **Notification of Corrective Actions**

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the PHA will determine (1) whether or not the failure is a life-threatening condition and (2) whether the family or owner is responsible.

### **HACP Policy**

When life-threatening conditions are identified, the HACP will immediately notify both parties by email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within twenty-four (24) hours of the HACP's notice.

When failures that are not life threatening are identified, the HACP will send the owner and the family a written notification of the inspection results within five (5) business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than thirty (30) days will be allowed for the correction.

The notice of inspection results will inform the owner that if life threatening conditions are not corrected within twenty-four (24) hours, and non-life-threatening conditions are not corrected within the specified time frame (or any HACP-approved extension), the owner's HAP will be abated in accordance with HACP 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 HACP-approved extension, if applicable) the family's assistance will be terminated in accordance with HACP policy (see Chapter 12).

### **Extensions**

For conditions that are life threatening, the PHA cannot grant an extension to the twenty-four (24) hour corrective action period. For conditions that are not life-threatening, the PHA may grant an exception to the required time frames for correcting the violation, if the PHA determines that an extension is appropriate [24 CFR 982.404].

### **HACP Policy**

Extensions will be granted in cases where the HACP 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 sixty (60) days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary repairs must be made within fifteen (15) calendar days, once the weather conditions have subsided.

## **Reinspection**

### **HACP Policy**

The HACP will conduct a re-inspection immediately following the end of the corrective period, or any HACP approved extension. Landlords completing emergency repairs required after a failed inspection may self-certify within twenty-four (24) hours that the emergency repairs were completed within twenty-four (24) hours. The HACP will conduct follow-up inspections within seventy-two (72) hours to verify correction of the deficiency.

In order to reduce excessive re-inspection requests from landlords, owners will have up to thirty (30) days to correct routine deficiencies. Extensions may be granted in extenuating circumstances on a case-by-case basis if a unit fails the re-inspection, the unit will be terminated from the program.

The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, the HACP 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 HACP policies. If the HACP is unable to gain entry to the unit in order to conduct the scheduled re-inspection, the HACP 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.

### **Alternative (Enhanced) Inspections**

#### **HACP Policy**

~~Through its Moving to Work (MTW) authority, the HACP has established and HUD has approved a more stringent inspection type(s) to qualify for an alternative payment standards. Specifically, to receive the Rehabilitation Payment Standard, the owner must request an inspection using the International Property Maintenance Code standards.~~

## **8-II.G. ENFORCING OWNER COMPLIANCE**

If the owner fails to maintain the dwelling unit in accordance with HQS, the PHA must take prompt and vigorous action to enforce the owner obligations.

### **HAP Abatement**

If an owner fails to correct HQS deficiencies by the time specified by PHA, HUD requires the PHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

### **HACP Policy**

The HACP will make all HAP abatements effective the first of the month following the expiration of the HACP-specified correction period (including any extension).

For each fifteen (15) calendar day segment following a final fail inspection (for which a re-inspection with a passing result does not occur), one-half of the monthly HAP will be abated.

The HACP will inspect abated units within five (5) business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period, the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

### **HAP Contract Termination**

The PHA must decide how long any abatement period will continue before the HAP contract will be terminated. The PHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time [HCV GB p. 10-29] and must give the owner reasonable notice of the termination. The PHA will issue a voucher to permit the family to move to another unit as described in Chapter 10.

### **HACP Policy**

The maximum length of time HAP contract may be abated is ~~sixty-one hundred eighty~~ (60180) calendar days. The unit must be resubmitted to the HACP via a Request for Tenancy Approval after this period to begin the Initial HQS Inspection process (outlined in Section 8-II.B.). However, if the owner completes corrections and notifies the HACP before the termination date of the HAP contract, the HACP 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 HACP is thirty (30) days.

## **8-II.H. ENFORCING FAMILY COMPLIANCE WITH HQS [24 CFR 982.404(b)]**

Families are responsible for correcting any HQS violations listed in paragraph 8.I.D. If the family fails to correct a violation within the period allowed by the PHA (and any extensions), The PHA will terminate the family's assistance, according to the policies described in Chapter 12.

If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

### **HACP Policy**

If the family receives a utility reimbursement as described in 6-III.A., the HACP will not terminate the utility reimbursement payment made to the family when the HAP contract is abated regardless of who is at fault for the HQS deficiencies. Instead, the HACP will terminate any applicable utility reimbursement to the family at the same time it is terminating the family's assistance, according to the policies described in Chapter 12 for failure to comply with HQS family obligations.

## PART III: RENT REASONABLENESS [24 CFR 982.507]

### 8-III.A. OVERVIEW

Except in the case of certain LIHTC- and HOME-assisted units, ~~No~~-no HAP contract can be approved until the PHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

#### PHA-Owned Units [24 CFR 982.352(b)]

In cases where an HCV family is receiving assistance in a PHA-owned unit, the PHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A PHA-owned unit is defined as a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA). The independent agency must communicate the results of the rent reasonableness determination to the family and the PHA. The independent agency must be approved by HUD and may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government).

### 8-III.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED

#### Owner-Initiated Rent Determinations

The PHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

The owner and family first negotiate the rent for a unit. The PHA (or independent agency in the case of the PHA-owned units) will assist the family with the negotiations upon request. At initial occupancy, the PHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

#### HACP Policy

After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, the HACP may request owners to provide information about the rents charged for other units on the premises, if the premises include more than four (4) units. In evaluating the proposed rents in comparison to other units on the premises that the HACP will consider unit size and length of tenancy in the other units.

All rent increase requests must be received by the HACP no later than one hundred-twenty (120) days prior to the first day of the anniversary month of the HAP contract effective date. All rent increase request must include written acknowledgement by the family of the proposed rent increase. Any rent increase requests received later than the submission deadline, or that are missing the family's acknowledgement by signature will be denied.

The HACP will determine whether the requested increase is reasonable within thirty (30) business days of receiving the request from the owner. The owner will be notified of the determination in writing.

All rent adjustments will be effective on the first day of the anniversary month of the HAP contract effective date.

The HACP has established a separate process for evaluating rent increases in excess of ~~four~~two hundred dollars (\$~~200~~400) or ten (10) percent or more. Once a rent increase is submitted, the unit upgrades must be inspected by an HQS inspector to justify the increase above the ~~four~~two hundred dollars (\$~~24~~00) or ten (10) percent or more threshold as follows:

Tier / Upgrade Category	Approvable Rent Increase Percentage	Upgrade Examples
1 - Small Upgrades	10% - 11.99%	Painting & Fixtures
2 - Moderate Upgrades	12% - 14.99%	Bathrooms, Kitchens, & Doors
3 - Substantial Upgrades	15% or more	Foundation, Roofing, Gutters, Chimney

### PHA- and HUD-Initiated Rent Reasonableness Determinations

HUD requires the PHA to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a ~~five~~ten (~~\$10~~) percent decrease in the Fair Market Rent that goes into effect at least sixty (60) days before the contract anniversary date. HUD also may direct the PHA to make a determination at any other time. The PHA may decide that a new determination of rent reasonableness is needed at any time.

### HACP Policy

In addition to the instances described above, the HACP will make a determination of rent reasonableness at any time after the initial occupancy period if: (1) the HACP determines that the initial rent reasonableness determination was in error, or (2) the HACP determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

### LIHTC and HOME-Assisted Units [24 CFR 982.507(c)]

For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.



For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, the PHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of (1) the reasonable rent as determined from the rent comparability study; or (2) the payment standard established by the PHA for the unit size involved.

### **8-III.C. HOW COMPARABILITY IS ESTABLISHED**

#### **Factors to Consider**

HUD requires PHAs to take into consideration the factors listed below when determining rent comparability. The PHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

- Location and age
- Unit size including the number of rooms and square footage of rooms
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise)
- The quality of the units including the quality of the original construction, maintenance and improvements made.
- Amenities, services, and utilities included in the rent

#### **Units that Must Not be used as Comparables**

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance [Noted Notice PIH 2002-522, Notice PIH 2005-20, and Notice PIH 2020-19].

**Note:** Notice PIH ~~2010~~2020-1819, issued August 21, 2020,~~May 10, 2010~~, 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 four (4) units.

By accepting PHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the PHA information regarding rents charged for other units on the premises.

## 8-III.D. PHA RENT REASONABLENESS METHODOLOGY

### How Market Data Is Collected

#### HACP Policy

The HACP will utilize an industry-leading third-party rent reasonableness source procured through its normal Request for Proposal process. The third-party rent reasonableness source will collect market information on listings that are no more than two (2) years old, unless data for a particular census tract is scarce, and provide up to three (3) comparables for the subject property. Property owners can request to view a copy of the rent reasonableness analysis.

On a case-by-case basis, the HACP will review property-owner submitted comparables for unassisted units if they disagree with the software's analysis. However, the comparables submitted by the property owner must have similar features in at least seventy-five (75) percent of the following categories:

- Location - within one (1) mile radius of the contract unit
- Bedroom size
- Age of the contract unit/year contract unit was built
- Unit type
- Number of bathrooms
- Utilities paid by the owner and tenant
- Availability of laundry facilities and/or parking
- Accessible features, if applicable

### How Rents Are Determined

#### HACP Policy

The HACP's schedule of payment standards is used to calculate housing assistance payments for HCV households. The payment standard is the maximum monthly assistance payment for a household assisted in the voucher program. The applicable payment standards for a household are:

- ~~**Tiered:** The HACP's regular payment standards applied to all units unless the unit qualifies for one of the alternative payment standards. More details about this payment standard can be found in Chapter 16.~~
- ~~**Exception Payment Standards (more details can be found in Chapter 16):**~~
  - ~~**Reasonable Accommodations:** This payment standard is applicable to disabled families for which a unit requires accessible features to be added in order for them to live in said unit. The HACP Disability Compliance Office vets and approves this payment standard, and the HQS inspectors verify that the accessible features have been added to the unit.~~
  - ~~**Rehabilitation:** Property owners who have made substantially rehabilitations and/or renovations to their unit can request this payment standard when they submit the RFTA to the HACP for review.~~
  - ~~**Emergency Housing Vouchers (EHV):** HCV applicant and participant families who have an EHV and submit a RFTA for a unit must utilize these payment standards.~~

~~Consideration will also be given to exceptionally remodeled or brand new units [less than two (2) years old]. These units may command a rent that is slightly above the range for older comparable units in a given census tract. Because units may be similar, but not exactly like the unit proposed for HCV assistance, the HACP may make adjustments to the range of prices to account for these differences. The HACP may determine comparability using Reasonable Rent software.~~

## EXHIBIT 8-1: OVERVIEW OF HUD HOUSING QUALITY STANDARDS (HQS)

This document provides an overview of HQS. For information that is more detailed, see the following documents:

- 24 CFR 982.401, Housing Quality Standards (HQS)
- Housing Choice Voucher Guidebook, Chapter 10
- HUD Housing Inspection Manual for Section 8 Housing
- HUD Inspection Form, form HUD-52580 (3/01) and Inspection Checklist, form HUD-52580-A (9/00)

### Sanitary Facilities [24 CFR 982.401(b)]

The dwelling unit must include sanitary facilities within the unit. The sanitary facilities must be usable in privacy and must be in proper operating condition and adequate for personal cleanliness and disposal of human waste.

### Food Preparation and Refuse Disposal [24 CFR 982.401(c)]

The dwelling unit must have space and equipment suitable for the family to store, prepare, and serve food in a sanitary manner.

### Space and Security [24 CFR 982.401(d)]

The dwelling unit must provide adequate space and security for the family. This includes having at least one (1) bedroom or living/sleeping room for each two (2) persons.

### Thermal Environment Space and Security [24 CFR 982.401(e)]

~~The dwelling unit must have and be capable of maintain a thermal environment healthy for the human body.~~ The dwelling unit must have a safe system for heating the dwelling unit. Air conditioning is not required but if provided must be in proper operating condition. The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Portable electric room heaters or kitchen stoves with built-in heating units are not acceptable as a primary source of heat for units located in climatic areas where permanent heat systems are required.

### Illumination and Electricity [24 CFR 982.401(f)]

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. Minimum standards are set for different types of rooms. Once the minimum standards are met, the number, type and location of electrical sources are a matter of tenant preference. ~~The electrical fixtures and wiring must ensure safety from fire. Acceptable criteria include:~~

- ~~• There must be at least one window in the living room and in each sleeping room.~~
- ~~• The kitchen area and the bathroom must have a permanent ceiling or wall light fixture in proper operating condition. The kitchen area must also have at least one electrical outlet in proper operating condition.~~
- ~~• The living room and each bedroom must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets.~~

## Structure and Materials [24 CFR 982.401(g)]

The dwelling unit must be structurally sound. Handrails are required when- four (4) or more steps (risers) are present, and protective railings are required when porches, balconies, and stoops are thirty (30) inches or more off the ground. The elevator servicing the unit must be working [if there is one]. Manufactured homes must have proper tie-down devices capable of surviving wind loads common to the area. The structure must not present any threat to the health and safety of the occupants and must protect the occupants from the environment. Acceptable criteria include:

- ~~Ceilings, walls, and floors must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage.~~
- ~~The roof must be structurally sound and weathertight.~~
- ~~The exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.~~
- ~~The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable.~~
- ~~Elevators must be working and safe.~~

## Interior Air Quality [24 CFR 982.401(h)]

The dwelling unit must be free of pollutants in the air at levels that threaten the health of the occupants. There must be adequate air circulation in the dwelling unit. Bathroom areas must have one (1) operable window or other adequate ventilation. Any sleeping room must have at least one (1) window. If a window was designed to be opened, it must be in proper working order. Acceptable criteria include:

- ~~The dwelling unit must be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.~~
- ~~There must be adequate air circulation in the dwelling unit.~~
- ~~Bathroom areas must have one openable window or other adequate exhaust ventilation.~~
- ~~Any room used for sleeping must have at least one window. If the window is designed to be openable, the window must work.~~

## Water Supply [24 CFR 982.401(i)]

The dwelling unit must be served by an approved public or private water supply that is sanitary and must be free from contamination. Plumbing fixtures and pipes must be free of leaks and threats to health and safety. Acceptable criteria include:

- ~~The dwelling unit must be served by an approvable public or private water supply that is sanitary and free from contamination.~~
- ~~Plumbing fixtures and pipes must be free of leaks and threats to health and safety.~~

## Lead-Based Paint [24 CFR 982.401(j)]

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 part 35, subparts A, B, M, and R of this title apply to units assisted under this part.

Lead-based paint requirements apply to dwelling units built prior to 1978 that are occupied or can be occupied by families with children less than six (6) years of age, excluding zero bedroom dwellings. Owners must:

- Disclose known lead-based paint hazards to prospective tenants before the lease is signed, ~~provide~~
- Provide all prospective families with "Protect Your Family from Lead in Your Home",
- Stabilize deteriorated painted surfaces and conduct hazard reduction activities within thirty (30) days when identified by the PHA
- Notify tenants each time such an activity is performed
- Conduct all work in accordance with HUD safe practices
- As part of ongoing maintenance, ask each family to report deteriorated paint.
- Maintain covered housing without ~~deteriorated~~deteriorated paint if there is a child under six (6) in the family.

For units occupied by environmental intervention blood lead level (lead poisoned) children under six (6) years of age, an environmental investigation risk assessment must be conducted (paid for by the PHA). If lead hazards are identified during the risk assessment environmental investigation, the owner must complete hazard reduction activities within thirty (30) days.

See HCV GB p. 10-15 for a detailed description of these requirements. For additional information on lead-based paint requirements see 24 CFR 35, Subparts A, B, M, and R.

#### **Access Performance Requirement [24 CFR 982.401(k)]**

Use and maintenance of the unit must be possible without unauthorized use of other private properties. The dwelling unit must be able to be used and maintained without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).

#### **Site and Neighborhood [24 CFR 982.401(l)]**

The site and neighborhood must be reasonably free from disturbing noises and reverberations, excessive trash or vermin, or other dangers to the health, safety, and general welfare of the occupants. ~~Acceptable eriteria includes:~~

- ~~The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.~~

#### **Sanitary Condition [24 CFR 982.401(m)]**

The dwelling unit and its equipment must be in sanitary condition and free of vermin and rodent infestation. The unit must have adequate barriers to prevent infestation.

#### **Smoke Detectors Performance Requirement [24 CFR 982.401(n)]**

Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any person with a hearing impairment, smoke detectors must have an appropriate alarm system as specified in NFPA 74 (or successor standards).



~~• Except as provided in paragraph (n)(2) of this section (the following bullet), each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics. Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard (NFPA) 74 (or its successor standards). If any hearing-impaired person occupies the dwelling unit, smoke detectors must have an alarm system, designed for hearing-impaired persons as specified in NFPA 74 (or successor standards).~~

~~• For units assisted prior to April 24, 1993, owners who installed battery-operated or hard-wired smoke detectors prior to April 24, 1993 in compliance with HUD's smoke detector requirements, including the regulations published on July 30, 1992, (57 FR 33846), will not be required subsequently to comply with any additional requirements mandated by NFPA 74 (i.e., the owner would not be required to install a smoke detector in a basement not used for living purposes, nor would the owner be required to change the location of the smoke detectors that have already been installed on the other floors of the unit).~~

### **Hazards and Health/Safety**

The unit, interior and exterior common areas accessible to the family, the site, and the surrounding neighborhood must be free of hazards to the family's health and safety.

## EXHIBIT 8-2: SUMMARY OF TENANT PREFERENCE AREAS AS RELATED TO HOUSING QUALITY

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**Note:** This document provides an overview of unit and site characteristics and conditions for which the family determines acceptability. The goal of the HCV program is to provide decent, safe and sanitary housing at an affordable cost to low-income families. To accomplish this, program regulations set forth basic Housing Quality Standards (HQS) which all units must meet before assistance can be paid on behalf of the family and at least biennially through the term of assisted tenancy. HQS defines “standard housing” and establishes the minimum criteria necessary for the health and safety of program participants. HQS regulations provide performance requirements and acceptability criteria to meet each performance criteria. 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-A (7/2019) and Inspection Checklist, form HUD-52580 (7/2019)

Provided the minimum housing quality standards have been met, HUD permits the family to determine whether the unit is acceptable with regard to the following characteristics.

- *Sanitary Facilities.* The family may determine the adequacy of the cosmetic condition and quality of the sanitary facilities, including the size of the lavatory, tub, or shower; the location of the sanitary facilities within the unit; and the adequacy of the water heater.
- *Food Preparation and Refuse Disposal.* The family selects size and type of equipment it finds acceptable. When the family is responsible for supplying cooking appliances, the family may choose to use a microwave oven in place of a conventional oven, stove, or range. When the owner is responsible for providing cooking appliances, the owner may offer a microwave oven in place of an oven, stove, or range only if other subsidized and unsubsidized units on the premises are furnished with microwave ovens only. The ~~family determines all the~~ adequacy of the amount and type of storage space, the cosmetic conditions of all equipment, and the size and location of the kitchen are all determined by the family.
- *Space and Security.* The family may determine the adequacy of room sizes and room locations. The family is also responsible for deciding the acceptability of the type of door and window locks.
- *Energy conservation items.* The family may determine whether the amount of insulation, presence of absence of storm doors and windows and other energy conservation items are acceptable.
- *Illumination and Electricity.* The family may determine whether the location and the number of outlets and fixtures (over and above those required to meet HQS standards) are acceptable or if the amount of electrical service is adequate for the use of appliances, computers, or stereo equipment.
- *Structure and Materials.* Families may determine whether minor defects, such as lack of paint, or worn flooring or carpeting will affect the livability of the unit.
- *Indoor Air.* Families may determine whether window and door screens, filters, fans, or other devices for proper ventilation are adequate to meet the family’s needs. However, if screens are present they must be in good condition.

- *Sanitary Conditions.* The family determines whether the sanitary conditions in the unit, including minor infestations, are acceptable.
- *Neighborhood conditions.* Families may determine whether neighborhood conditions such as the presence of drug activity, commercial enterprises, and convenience to shopping will affect the livability of the unit.

Families have no discretion with respect to lead-based paint standards and smoke detectors.

## CHAPTER 9: GENERAL LEASING POLICIES

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### INTRODUCTION

Chapter 9 covers the lease-up process from the family's submission of a Request for Tenancy Approval to execution of the HAP contract.

In order for a PHA 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 PHA must determine that all the following program requirements are met:

- The unit itself must qualify as an eligible unit [24 CFR 982.305(a)]
- The unit must be inspected by the PHA and meet the Housing Quality Standards (HQS) [24 CFR 982.305(a)]
- The lease offered by the owner must be approvable and must include the required Tenancy Addendum [24 CFR 982.305(a)]
- The rent to be charged by the owner for the unit must be reasonable [24 CFR 982.305(a)]
- The owner must be an eligible owner, approvable by the PHA, with no conflicts of interest [24 CFR 982.306]
- For families initially leasing a unit only: Where the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family cannot exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)]

### 9-I.A. TENANT SCREENING

The PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy [24 CFR 982.307(a)(1)].

The PHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of HACP's policies with regard to screening applicant families for program eligibility [24 CFR 982.307(a)(1)].

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the HACP must inform the owner that screening and selection for tenancy is the responsibility of the owner [24 CFR 982.307(a)(2)]. The PHA must also inform the owner or manager or ~~his/her~~their rights and obligations under the Violence ~~against~~Against Women Act of ~~2005~~2022 (VAWA) [24 CFR 5.2005(a)(2)].

The PHA must provide the owner with the family's current and prior address (as shown in PHA records) and the name and address (if known to the PHA) of the landlord at the family's current and prior address [24 CFR 982.307(b)(1)].

The PHA is permitted, but not required, to offer the owner other information in the PHA's possession about the tenancy history or drug trafficking of family members [24 CFR 982.307(b)(2)].

The PHA's policy on providing information to the owner must be included in the family's briefing packet [24 CFR 982.307(b)(3)].

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

### HACP Policy

The HACP will not screen applicants for family behavior or suitability for tenancy.

The HACP 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 PHA to approve the assisted tenancy in the selected unit.

The owner and the family must submit two documents to the PHA:

- Completed Request for Tenancy Approval (RFTA) – Form HUD-52517
- Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A

The RFTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for the PHA to determine whether to approve the assisted tenancy in this unit.

Owners must certify 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 PHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

For units constructed prior to 1978, owners must either 1) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or 2) attach a lead-based paint disclosure statement.

Both the RFTA and the proposed lease must be submitted no later than the expiration date stated on the voucher. [HCV GB p.8-15].

### HACP Policy

The RFTA must be signed by both the family and the owner. The owner may submit the RFTA on behalf of the family. ~~The family may not submit the RFTA.~~

The completed RFTA (including the proposed dwelling lease) must be submitted electronically through the HACP website, unless it is an incoming portable family from another jurisdiction, or the owner requests an alternative format due to a disability-related need.

The family may not submit, and the HACP will not process more than one (1) RFTA at a time.

#### *Reviewing for Completeness*

When the family submits the RFTA, the HACP will review the RFTA for completeness.

If the RFTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RFTA (if the owner has chosen not to utilize the HACP approved lease), the HACP will notify the family and the owner of the deficiencies in writing with a required response date.

- Missing information and/or missing documents will only be accepted as hard copies, in-person, by mail, by fax or by email. The HACP will not accept missing information over the phone.
- If the owner fails to respond with the missing information and/or missing documents requested in writing by the response date, the RFTA will be voided. After a RFTA is voided, the owner must start the process all over again by submitting a new, completed RFTA.

Because of the time sensitive nature of the tenancy approval process, the HACP will attempt to communicate with the owner and family by phone, fax, or email. The HACP will use mail when the parties cannot be reached by phone, fax, or email.

If the owner fails to correct the discrepancies noted by the HACP by the response date, the RFTA will be voided. After a RFTA is voided, the owner must start the process all over again by submitting a new, completed RFTA.

#### **Reviewing for Consistency with the Proposed Lease Terms**

When the family submits the RFTA and proposed lease (if applicable), the PHA will also review the terms of the RFTA for consistency with the terms of the proposed lease.

- If the terms of the RFTA are not consistent with the terms of the proposed lease (if applicable), the PHA will notify the family and the owner of the discrepancies in writing with a required response date.
- Corrections to the terms of the RFTA and/or the proposed lease (if applicable) will only be accepted as hard copies, in-person, by mail, by fax or by email. The PHA will not accept corrections by phone.

#### **HACP Policy**

The HACP supplies the family and owner with a lease. If the owner wishes to use their own lease, the HACP Legal Department will review and approve the lease terms for consistency with program regulations. No owner-supplied lease will be accepted without the HACP Legal Department's approval.

#### **Rent Reasonableness and Affordability Check**

##### **HACP Policy**

The HACP will review the terms of the RFTA and the proposed lease (if applicable) to ensure the rent to be charged by the owner for the unit is reasonable and meets the HACP's family affordability requirements. Any necessary contract rent negotiations or family rent burden letter signing (per the HACP's MTW authority) will take place before the unit is scheduled for the initial inspection.



## **9-I.C. OWNER PARTICIPATION**

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which the PHA must disapprove an owner. No owner has a right to participate in the HCV program [24 CFR 982.306(e)]

See Chapter 13 for a full discussion of owner qualification to participate in the HCV program.

## **9-I.D. ELIGIBLE UNITS**

There are a number of criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in the PHA's jurisdiction. This includes the dwelling unit they are currently occupying.

### **Ineligible Units [24 CFR 982.352(a)]**

The PHA 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.

### **PHA-Owned Units [24 CFR 982.352(b)]**

Otherwise eligible units that are owned or substantially controlled by the PHA issuing the voucher may also be leased in the voucher program. In order for a PHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and the PHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a PHA-owned unit without any pressure or steering by the PHA.

### **HACP Policy**

The HACP does not have any eligible HACP-owned units available for leasing under the voucher program.

### **Special Housing Types [24 CFR 982 Subpart M]**

HUD regulations permit, but do not generally require, PHA's 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 PHA has chosen to allow.

The regulations do require a PHA to permit use of any special housing type if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

### **Duplicative Assistance [24 CFR 982.352(c)]**

A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

- Public or Indian housing assistance;
- Other Section 8 assistance (including other tenant-based assistance);
- Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);
- Section 101 rent supplements;
- Section 236 rental assistance payments;
- Tenant-based assistance under the HOME Program;
- Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);
- Any local or State rent subsidy;
- Section 202 supportive housing for the elderly;
- Section 811 supportive housing for persons with disabilities; (11) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or
- Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

### **Housing Quality Standards (HQS) [24 CFR 982.305 and 24 CFR 982.401]**

In order to be eligible, the dwelling unit must be in decent, safe and sanitary condition. This determination is made using HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD. See Chapter 8 for a full discussion of the HQS standards, as well as the process for HQS inspection at initial lease-up.

### **Unit Size**

In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements [24 CFR 982.402(d)]. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family. See Chapter 5 for a full discussion of subsidy standards.

### **Rent Reasonableness [24 CFR 982.305 and 24 CFR 982.507]**

In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of rents charged by the owner for comparable, unassisted units on the premises. See Chapter 8 for a full discussion of rent reasonableness and the rent reasonableness determination process.

## **Rent Burden [24 CFR 982.508, as amended by MTW]**

This regulation specifies 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 forty (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.

### **HACP Policy**

Per its Moving to Work (MTW) authority, the HACP has HUD-approval to allow HCV families to pay more than forty (40) percent of their monthly-adjusted income towards rent if their adjusted monthly income is greater than zero (0). Zero (0) income families do not qualify for this MTW activity.

The HACP will counsel the family of the dangers of becoming rent-burdened and how paying more rent can limit their spending power for other essential household expenses; however, the HACP will not deny a Request for Tenancy Approval (RFTA) if the family is willing to agree to pay more than forty (40) percent of their monthly-adjusted income. The HACP will require agreeable families to sign a rent burden letter, which states the responsibilities of a higher rent portion and advises that they must still pay their rent in a timely manner.

## **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 PHA is not a party to this contract.

The tenant must have legal capacity to enter a lease under State and local law. 'Legal capacity' means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner [24 CFR 982.308(a)]

### **Lease Form and Tenancy Addendum [24 CFR 982.308]**

If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease 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.

### **HACP Policy**

The HACP does provide a model or standard dwelling lease for owners to use in the HCV program. Owners are **not** required to use this model lease but any lease that is utilized by the landlord for the HCV program must be reviewed and approved by the HACP for consistency with program requirements.

## **Lease Information [24 CFR 982.308(d)]**

The assisted dwelling lease must contain all of the required information as listed below:

- The names of the owner and the tenant:
- The unit rented (address, apartment number, and any other information needed to identify the contract unit)
- The term of the lease (initial term and any provisions for renewal)
- The amount of the monthly rent to owner
- A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family

## **Term of Assisted Tenancy**

The initial term of the assisted dwelling lease must be for at least one year [24 CFR 982.309]. The initial lease term is also stated in the HAP contract.

The HUD program regulations permit PHA's to approve a shorter initial lease term if certain conditions are met.

## **HACP Policy**

The HACP will approve an initial lease term of not less than eleven and one-half (11.5) months.

During the initial term of the lease, the owner may not raise the rent to owner [24 CFR 982.309].

Any provisions for renewal of the dwelling lease will be stated in the dwelling lease [HCV Guidebook, pg. 8-22]. There are no HUD requirements regarding any renewal extension terms, except that they must be stated in the dwelling lease if they exist.

A PHA may execute the HAP contract even if there is less than one year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC. [24 CFR 982.309(b)].

## **Security Deposit [24 CFR 982.313 (a) and (b)]**

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if the PHA chooses to do so, language to this effect must be added to Part A of the HAP contract [Form HUD-52641].

## **HACP Policy**

The HACP will deny approval of a lease where a request has been made to collect from a family a security deposit that is in excess of private market practice or in excess of amounts charged by the owner to unassisted tenants.

## **Separate Non-Lease Agreements between Owner and Tenant**

Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by the PHA minus the PHA's housing assistance payments to the owner [24 CFR 982.451(b)(4)].

The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)].

### **HACP Policy**

The HACP 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. A copy of any such agreement must be provided to the HACP.

Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family. A copy of any such agreement must be provided to the HACP.

The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property. A copy of any such agreement must be provided to HACP.

### **PHA Review of Lease**

The PHA will review the dwelling lease for compliance with all applicable requirements.

### **HACP Policy**

If the dwelling lease is incomplete or incorrect, the HACP will notify the family and the owner of the deficiencies. Missing and corrected lease information will only be accepted as hard copies, in-person, by mail, or by fax or electronic submission. The HACP will not accept missing and corrected information over the phone.

Because the initial leasing process is time-sensitive, the HACP will attempt to communicate with the owner and family by phone, fax, or email. The HACP will use mail when the parties can't be reached by phone, fax, or email.

The PHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if the PHA determines that the lease does not comply with State or local law [24 CFR 982.308(c)]

## HACP Policy

The HACP will not review the owner's lease for compliance with state/local law. However, if it is determined prior to approval of the HAP contract that the lease does not comply with state/local law, then the HACP will decline to approve the tenancy.

### **9-I.F. TENANCY APPROVAL [24 CFR 982.305]**

After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, the PHA must promptly notify the family and owner whether the assisted tenancy is approved.

Prior to approving the assisted tenancy and execution of a HAP contract, the PHA must ensure that all required actions and determinations discussed in Part I of this chapter have been completed.

These actions include ensuring that the unit is eligible; the unit has been inspected by the PHA and meets the Housing Quality Standards (HQS); the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit 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 CFR 982.305(a)]; the owner is an eligible owner, not disapproved by the PHA, with no conflicts of interest [24 CFR 982.306]; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead- based paint disclosure information [24 CFR 982.305(b)].

## HACP Policy

The HACP will complete its determination within thirty (30) business days of receiving all required information.

If the terms of the RFTA and/or proposed lease are changed for any reason, including but not limited to negotiation with the HACP, the HACP will obtain corrected copies of the RFTA and proposed lease, signed by the family and the owner.

- Corrections to the RFTA/proposed lease will only be accepted as hard copies, in-person, by mail, or by fax or by email. The HACP will not accept corrections over the phone.

If HACP 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 HACP will instruct the owner and family of the steps that are necessary to obtain approval of the tenancy.

- Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.
- If the tenancy is not approvable due to rent affordability or rent reasonableness, the HACP 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 or execute a rent burden letter.



## 9-I.G. HAP CONTRACT EXECUTION [24 CFR 982.305]

The HAP contract is a written agreement between the PHA and the owner of the dwelling unit. Under the HAP contract, the PHA 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 PHA has given approval for the family of the assisted tenancy, the owner and the PHA must execute the HAP contract.

The term of the HAP contract must be the same as the term of the lease [24 CFR 982.451(a)(2)].

The PHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

PHA's must make their 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 sixty (60) calendar days from the beginning of the lease term.

PHA's may not make any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of sixty (60) calendar days from the beginning of the lease term, the PHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract [a maximum of sixty (60) days].

Any HAP contract executed after the sixty (60) day period is void, and the PHA may not pay any housing assistance payment to the owner.

### HACP Policy

Owners who have not previously participated in the HCV program must attend a meeting with HACP in which the terms of the Tenancy Addendum and the HAP contract will be explained. The HACP may waive this requirement on a case-by-case basis, if it (1) determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCV program or (2) opts to review an HACP-issued DVD that including the required information.

The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to the HACP. The HACP will ensure that both the owner and the assisted family receive copies of the dwelling lease.

The owner and the HACP will execute the HAP contract. The HACP will not execute the HAP contract until the owner has submitted IRS form W-9. The HACP will ensure that the owner receives a copy of the executed HAP contract.

As required under VAWA 2023, once the HAP contract and lease have been executed and the family has been admitted to the program, the HACP will notify families of their rights under VAWA by providing all families with a copy of the Domestic Violence Certification form (HUD-5382) as well as the VAWA Notice of Occupancy Rights form (HUD-5380).

See Chapter 13 for a discussion of the HAP contract and contract provisions.

## 9-I.H. CHANGES IN LEASE OR RENT [24 CFR 982.308]

If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give the PHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

Generally, PHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are required. These circumstances include:

- Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances
- Changes in lease provisions governing the term of the lease
- The family moves to a new unit, even if the unit is in the same building or complex

In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RFTA) along with a new dwelling lease containing the 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 PHA at least sixty (60) days before any such changes go into effect [24 CFR 982.308(g)(4)]. The PHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease.

No rent increase is permitted during the initial term of the lease [24 CFR 982.309(a)(3)].

### HACP Policy

Owners may request a rent increase once per year. Where the owner is requesting a rent increase, the request must be received by HACP no less than one hundred-twenty (120) calendar days in advance of the first day of the anniversary month of the HAP contract. All rent increase requests must include written acknowledgement by the family of the proposed rent increase. Any rent increase requests received later than the submission deadline, or that are missing the family's acknowledge by signature will be denied.

### **Rent Increases in Excess of ~~\$200~~400 (or 10% or More)**

The HACP has established a separate process for evaluating rent increases in excess of ~~two-four~~ hundred dollars (~~\$200~~400) or ten (10) percent or more. Once a rent increase is submitted, the unit upgrades must be inspected by an HQS inspector to justify the increase above the ~~two-four~~ hundred dollars (~~\$200~~400) or ten (10) percent or more threshold as follows:

Tier / Upgrade Category	Approvable Rent Increase Percentage	Upgrade Examples
1 - Small Upgrades	10% - 11.99%	Painting & Fixtures
2 - Moderate Upgrades	12% - 14.99%	Bathrooms, Kitchens, & Doors
3 - Substantial Upgrades	15% or more	Foundation, Roofing, Gutters, Chimney

# CHAPTER 10: MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

## INTRODUCTION

Freedom of housing choice is a hallmark of the housing choice voucher (HCV) program. In general, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and PHA policies governing moves within or outside the PHA'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 PHA's HCV program, whether the family moves to another unit within the PHA's jurisdiction or to a unit outside the PHA'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 PHA's jurisdiction. This part also covers the special responsibilities that the PHA has under portability regulations and procedures.

## PART I: MOVING WITH CONTINUED ASSISTANCE

### 10-I.A. ALLOWABLE MOVES

HUD lists six regulatory conditions under which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)]. If the family terminates the lease on notice to the owner, the family must give the PHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].
- The lease for the family's unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)].

#### HACP Policy

If the family and the owner mutually agree to terminate the lease for the family's unit, the family must ~~use the HACP's form and also must~~ provide the HACP a copy of the mutual termination agreement.

- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.314(b)(2)]. The family must give the PHA a copy of any owner eviction notice [24 CFR 982.551(g)].

- The family or a member of the family is or has been the victim of domestic violence, dating violence, or stalking and the move is needed to protect the health or safety of the family or family member [24 CFR 982.314(b)(4)]. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to the PHA, if the family or family member who is the victim reasonably believed that they were imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.314(b)(4), 24 CFR 982.353(b)]. The PHA must adopt an emergency transfer plan as required by regulations at 24 CFR 5.2007(e).

### HACP Policy

If a family requests permission to move with continued assistance or for an external transfer to another covered housing program operated by the HACP based on a claim that the move is necessary to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, the HACP will request that the resident request the emergency transfer using the VAWA Emergency Transfer form (HUD-5383), and the HACP will request documentation in accordance with section 16-IX.D of this plan.

The HACP 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 HACP will document the waiver in the family's file.

The HACP may choose to provide a voucher to facilitate an emergency transfer of the victim without first terminating the assistance of the perpetrator.

Before granting an emergency transfer, the HACP will ensure the victim is eligible to receive continued assistance based on the citizenship or immigration status of the victim.

The HACP has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan and discusses external transfers to other covered housing programs.

- The PHA has terminated the assisted lease for the family's unit for the owner's breach [24 CFR 982.314(b)(1)(i)].
- The PHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the PHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which the PHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

### HACP Policy

~~If a family requests permission to move with continued assistance or for an external transfer to another covered housing program operated by the HACP based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault or stalking, the HACP will request that the resident request the emergency transfer using form HUD-5383, and the HACP will request documentation in accordance with section 16-IX.D of this plan.~~

~~The PHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases the PHA will document the waiver in the family's file. The PHA may choose to provide a voucher to facilitate an emergency transfer of the victim without first terminating the assistance of the perpetrator. Before granting an emergency transfer, the PHA will ensure the victim is eligible to receive continued assistance based on the citizenship or immigration status of the victim. The PHA has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan and discusses external transfers to other covered housing programs.~~

## 10-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b) (2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

### Denial of Moves

HUD regulations permit the PHA to deny a family permission to move under the following conditions:

#### *Insufficient Funding*

The PHA may deny a family permission to move either within or outside the PHA's jurisdiction if the PHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)]. However, Notice PIH 2016-09 significantly restricts the ability of PHAs to deny permission to move due to insufficient funding and places further requirements on PHAs regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

#### HACP Policy

The HACP will deny a family permission to move on grounds that the HACP does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the HACP; (b) the HACP can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the HACP 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 HACP does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the unit failed HQS), the family may move to a higher cost unit if the move is within the HACP's jurisdiction. The HACP, 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 HACP's jurisdiction and outside under portability, the HACP will not deny a move due to insufficient funding if the HACP previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. The HACP will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

The HACP will create a list of families whose moves have been denied due to insufficient funding. The HACP will keep the family's request open indefinitely, and when ~~When~~ funds become available, the families on this list will take precedence over families on the waiting list. The HACP will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list (see section 4-III.D).

The HACP will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

### ***Grounds for Denial or Termination of Assistance***

The PHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)].

### **HACP Policy**

If the HACP has grounds for denying or terminating a family's assistance, the HACP will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

### **Restrictions on Elective Moves [24 CFR 982.314(c)]**

HUD regulations permit the PHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the PHA to prohibit more than one (1) elective move by a participant family during any twelve (12) month period. However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member. (For the policy on documentation of abuse, see section 10-I.A.) In addition, the PHA may not establish a policy permitting moves only at reexamination [Notice PIH 2016-09].

### **HACP Policy**

The HACP will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the HACP's jurisdiction or outside it under portability.

The HACP will also deny a family permission to make more than one (1) elective move during any twelve (12) month period. If a family receives a voucher during a twelve (12) month time period, but does not physically move, the family has not exercised its right to an elective move. The twelve (12) month time period runs when the family physically relocates from a unit that is under subsidy. This policy applies to all assisted families residing in the HACP's jurisdiction.

The HACP will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), to address an emergency situation over which a family has no control, or the family has received written permission from the owner that releases the family from the contractual obligation of the lease. HACP must receive a copy of the release in writing.

In addition, the HACP will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities (see Chapter 2).



## 10-I.C. MOVING PROCESS

### Notification

If a family wishes to move to a new unit, the family must notify the PHA and the owner before moving out of the old unit or terminating the lease on notice to the owner [24 CFR 982.314(d)(2)]. If the family wishes to move to a unit outside the PHA's jurisdiction under portability, the notice to the PHA must specify the area where the family wishes to move [24 CFR 982.314(d)(2)]. The notices must be in writing [24 CFR 982.5].

### Approval

#### HACP Policy

Upon receipt of a family's notification that it wishes to move, the HACP 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 HACP will notify the family in writing of its determination within ten (10) business days following receipt of the family's notification.

### Reexamination of Family Income and Composition

#### HACP Policy

For families approved to move to a new unit within the HACP's jurisdiction, the HACP will perform a new annual reexamination in accordance with the policies set forth in Chapter 11 of this plan.

For families moving into or families approved to move out of the HACP's jurisdiction under portability, the HACP will follow the policies set forth in Part II of this chapter.

### Voucher Issuance and Briefing

#### HACP Policy

For families approved to move to a new unit within the HACP's jurisdiction, the HACP will issue a new voucher within ten (10) business days of receiving the completed moving paper documentation. No briefing is required for these families. The HACP will follow the policies set forth in Chapter 5 on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and the HACP approves. Otherwise, the family will lose its assistance.

For families moving into or families approved to move out of the HACP's jurisdiction under portability, the HACP will follow the policies set forth in Part II of this chapter.

### Housing Assistance Payments [24 CFR 982.311(d)]

When a family moves out of an assisted unit, the PHA may not make any housing assistance payment to the owner for any month **after** the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

### Zero HAP Families Who Wish to Move [24 CFR 982.455]

A participant who is not receiving any subsidy, but whose HAP contract is still in force, may request a voucher to move to a different unit. The PHA must issue a voucher to move unless it has grounds to deny assistance under the program regulations. However, if the PHA determines no subsidy would be paid at the new unit, the PHA may refuse to enter into a HAP contract on behalf of the family.

### HACP Policy

If a zero HAP family requests to move to a new unit, the family may request a voucher to move if they are otherwise eligible to move. However, if no subsidy will be paid at the unit to which the family requests to move, the HACP will not enter into a HAP contract on behalf of the family for the new unit.

## **PART II: PORTABILITY**

### **10-II.A. OVERVIEW**

Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program [24 CFR 982.353(b)]. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The PHA that issues the voucher is called the **initial PHA**. The 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 email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request [Notice PIH 2016- 09].

PHAs commonly act as both the initial and receiving PHA because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. The PHA will follow the rules and policies in section 10-II.B when it is acting as the initial PHA for a family. It will follow the rules and policies in section 10-II.C when it is acting as the receiving PHA for a family.

In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of the HUD-required forms [24 CFR 982.355(e)(5)].

PHAs must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA if the PHA does not comply with HUD portability requirements [24 CFR 982.555(e)(7)].

## 10-II.B. INITIAL PHA ROLE

### Allowable Moves under Portability

A family may move with voucher assistance only to an area where there is at least one (1) PHA administering a voucher program [24 CFR 982.353(b)]. If there is more than one (1) PHA in the area, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform the initial PHA which receiving PHA it has selected. If the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family [24 CFR 982.255(b)].~~may choose the receiving PHA [24 CFR 982.355(b)].~~

Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside the PHA's jurisdiction under portability. HUD regulations and PHA policy determine whether a family qualifies.

### *Applicant Families*

Under HUD regulations, most applicant families qualify to lease a unit outside the PHA's jurisdiction under portability. However, HUD gives the PHA discretion to deny a portability move by an applicant family for the same two reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If a PHA intends to deny a family permission to move under portability due to insufficient funding, the PHA must notify HUD within ten (10) business days of the determination to deny the move [24 CFR 982.355(e)].

### HACP Policy

In determining whether or not to deny an applicant family permission to move under portability because the HACP lacks sufficient funding or has grounds for denying assistance to the family, the HACP will follow the policies established in section 10-I.B of this chapter. If the HACP does deny the move due to insufficient funding, the HACP will notify HUD in writing within ten (10) business days of the HACP's determination to deny the move.

In addition, the initial PHA may establish a policy denying the right to portability to nonresident applicants during the first twelve (12) months after they are admitted to the program [24 CFR 982.353(c)]. ~~However, the PHA must not deny the right to portability when 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 Domestic Violence, Dating Violence, Sexual Assault, or Stalking), and the move is needed to protect the health or safety of the family or family member, or any family member who has been the victim of a sexual assault that occurred on the premises during the ninety (90) calendar day period preceding the family's request to move.~~

### HACP Policy

If neither the head of household nor the spouse/co-head of an applicant family had a domicile (legal residence) in the HACP's jurisdiction at the time that the family's initial full application for assistance was submitted (**not** the family's pre-application), the family must lease a unit within the initial HACP's jurisdiction for at least twelve (12) months before requesting portability. The only exceptions to this are the following:

- An applicant family enrolled in the HUD Community Choice Demonstration may lease a unit within Allegheny County Housing Authority's jurisdiction without having had a legal residence in the HACP's jurisdiction at the time the family's initial full application for assistance was submitted to the HACP.

- The HACP will ~~allow~~ consider nonresident portability if the move relates directly to ~~fleeing~~ domestic violence, dating violence, sexual assault, or stalking in compliance with 24 CFR part 5, subpart L.
- The HACP will consider nonresident portability exceptions for purposes of reasonable accommodation (see Chapter 2). ~~disability-related portability exceptions requested via the reasonable accommodations process.~~

~~Any exception of this policy is subject to the approval of the receiving PHA [24 CFR 982.353(e)(3)]. Furthermore, per PIH Notice 2021-15, HUD waived section 8(r)(1)(b)(i) of the United States Housing Act of 1937 and § 982.353(e) for EHV nonresident applicants. The HACP may not restrict an EHV family from exercising portability because they are a non-resident applicant.~~

### ***Participant Families*** ~~[24 CFR 982.353(b)]~~

The initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease ~~[24 CR 982.353(b)]~~. The Violent Against Women Reauthorization Act of 2022 (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 a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit [24 CFR 982.353(b)]. If the family moves out in violation of the lease in order to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believes him- or herself to be threatened with imminent harm from further violence by remaining in the dwelling unit (or any family member has been the victim of a sexual assault that occurred on the premises during the ninety (90) calendar day period preceding the family's move or request to move), and has otherwise complied with all other obligations under the Section 8 program, the family may receive a voucher from the initial PHA and move to another jurisdiction under the Housing Choice Voucher Program.

### **HACP Policy**

The HACP will determine whether a participant family may move out of the HACP'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 HACP will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

### **Determining Income Eligibility**

#### ***Applicant Families***

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(~~13~~)]. The family must specify the area to which the family wishes to move ~~notify the initial PHA of its desire to relocate and must specify the location where it wants to live~~ [24 CFR 982.355(c)(1)].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(~~de~~)(~~12~~) and 982.353(~~d9~~)(~~1~~)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2016-09].

## Participant Families

The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability [24 CFR 982.353(d)(2)].

## Reexamination of Family Income and Composition

No new reexamination of family income and composition is required for an applicant family.

### HACP Policy

For a participant family approved to move out of its jurisdiction under portability, the HACP generally will conduct a reexamination of family income and composition only if the family's annual reexamination must be completed on or before the initial billing deadline specified on form HUD-52665, Family Portability Information.

The HACP 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 PHA to provide information on portability to all applicant families that qualify to lease a unit outside the PHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

### HACP Policy

No formal briefing will be required for a participant family wishing to move outside the HACP's jurisdiction under portability. However, the HACP 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 HACP will provide the name, address, and phone of the contact for the HACP in the jurisdiction to which they wish to move. If there is more than one (1) PHA with jurisdiction over the area to which the family wishes to move, the HACP will advise the family that the family selects the receiving PHA and notify the initial PHA of which receiving PHA was selected. The HACP will provide the family with contact information for all of the receiving PHAs that serve the area. The HACP will not provide any additional information about receiving PHAs in the area. The HACP will further inform the family that if the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family. In this case, the HACP will not provide the family with information for all receiving PHAs in the area.

The HACP will advise the family that they will be under ~~the RHA's~~receiving the receiving PHA's policies and procedures, including screening, subsidy standards, ~~and~~ and payment standards.

## Voucher Issuance and Term

An applicant family has no right to portability until after the family has been issued a voucher [24 CFR 982.353(b)]. In issuing vouchers to applicant families, the PHA will follow the regulations and procedures set forth in Chapter 5.

## HACP Policy

For participating families approved to move under portability, the HACP will issue a new voucher within ten (10) business days of the HACP's written approval to move.

The initial term of the voucher will be one hundred-twenty (120) days.

## **Voucher Extensions and Expiration**

### HACP Policy

The HACP will approve **no** additional extensions to a voucher issued to an applicant or participant family porting out of HACP's jurisdiction beyond the normal voucher term except under the following circumstances: (a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA, (b) the family decides to return to the initial PHA's jurisdiction and search for a unit there, or (c) the family decides to search for a unit in a third PHA's jurisdiction. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.

~~unless the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA. In such cases, the policies on voucher extensions set forth in Chapter 5, section 5-II.E, of this plan will apply, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term.~~

To receive or continue receiving assistance under the HACP's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within ninety (90) days following the expiration date of the HACP's voucher term (including any extensions). (See below under "Initial Billing Deadline" for one exception to this policy.)~~before the initial billing deadline of ninety (90) days following the expiration date of the HACP's voucher term (including any extensions).~~

~~The HACP will restrict portability use for those who do not live in the jurisdictional limits of the City of Pittsburgh when they applied for the HCV Program with the HACP. Persons who were not City of Pittsburgh residents at the time of application with the HACP must lease within the jurisdiction of the City of Pittsburgh for not less than twelve (12) consecutive months immediately prior to porting out to another jurisdiction unless they meet one of the exception criteria stated in Section 10-II.B.~~

## **Preapproval Contact with the Receiving PHA**

Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move [~~Notice PIH 2016-0924 CFR 982.355(c)(3)~~].

### HACP Policy

The HACP will use email, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.



## Initial Notification to the Receiving PHA

After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA via email or other confirmed delivery method to expect the family [24 CFR 982.355(c)(3); 24 CFR 982.355(c)(7)]. ~~This means that the initial PHA must contact the receiving PHA directly on the family's behalf [Notice PIH 2019-09].~~ The initial PHA must also advise the family how to contact and request assistance from the receiving PHA [24 CFR 982.355(c)(6)].

## HACP Policy

Because the portability process is time-sensitive, the HACP will notify the receiving HACP by phone, fax, or e-mail to expect the family. The ~~initial~~ HACP will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, email address, and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. The HACP will pass this information along to the family. The HACP 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]~~

The initial PHA is required to send the receiving PHA the following documents:

- Form HUD-52665, Family Portability Information, with Part I filled out [Notice PIH 2016-09]. ~~The initial PHA completes and sends Part I of this form to the receiving PHA.~~
- A copy of the family's voucher [Notice PIH 2016-09]
- A copy of the family's most recent form HUD-50058, (Family Report), or if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058 for the family. In the case of the applicant family, the initial PHA has not yet completed the HUD-50058 in its entirety because the family is not yet a new admission. The initial PHA must provide the partially completed HUD-50058 for the applicant family to the receiving PHA. And, incoming information in a format similar to the Form HUD-50058 so that the information is easily available for use by the receiving PHA [24 CFR 982.355(c)(7), Notice PIH 2016-09(9)(h)(2)].
- Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data [24 CFR 982.355(c)(7), Notice PIH 2016-09]
- ~~All relate verification information.~~
- ~~A copy of the voucher signed by the participant and the PHA.~~

~~Although not required, it is best practice for the initial PHA to provide the receiving PHA the following:~~

- ~~Citizenship status;~~
- ~~Copies of photo IDs;~~
- ~~Information on the family's participation in the family self-sufficiency program; and~~
- ~~Information on reasonable accommodation and/or Earned Income Disallowance (EID).~~

## HACP Policy

In addition to the ~~se-required~~ documents, the HACP will provide the following information, if available, to the receiving ~~HACPPHA~~:

- Social security numbers (SSNs)
- Documentation of SSNs for all nonexempt household members whose SSNs have not been verified through the EIV system
- Documentation of legal identity
- Documentation of citizenship or eligible immigration status
- ~~Documentation of participation in the earned income disallowance (EID) benefit~~
- Documentation of participation in a family self-sufficiency (FSS) program

The HACP will notify the family in writing regarding any information provided to the receiving ~~HACP PHA~~ [HCV GB, p. 13-3].

### **Initial Billing Deadline [Notice PIH 2016-09]**

The deadline for submission of initial billing is ninety (90) days following the expiration date of the voucher issued to the family by the initial PHA. In cases where suspension of the voucher delays the initial billing submission, the receiving PHA must notify the initial PHA of delayed billing before the billing deadline and document the delay is due to the suspension. In this case, the initial PHA must extend the billing deadline by thirty (30) days.

If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must notify the receiving PHA in writing. The initial PHA may report to HUD the receiving PHA's failure to comply with the deadline.

If the initial PHA will honor the late billing, no action is required.

~~When the initial PHA sends form HUD-52665 to the receiving PHA, it specifies in Part I the deadline by which it must receive the initial billing notice from the receiving PHA. This deadline is ninety (90) days following the expiration date of the voucher issued to the family by the initial PHA. If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must contact the receiving PHA to determine the status of the family. If the receiving PHA reports that the family is not yet under HAP contract, the initial PHA may refuse to accept a late billing submission. If the receiving PHA reports that the family is under HAP contract and the receiving PHA cannot absorb the family, the initial PHA must accept a late billing submission; however, it may report to HUD the receiving PHA's failure to comply with the deadline.~~

## HACP Policy

~~The HACP's decision as to whether to accept late billing will be based on internal PHA factors, including the HACP's leasing or funding status. If the HACP has not received an initial billing notice from the receiving PHA by within the billing deadline and does not intend to honor the late billing, specified on form HUD-52665, it will contact the receiving PHA by phone, fax, or e-mail on the next business day to inform them that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. In this case, the HACP will send the receiving PHA a written confirmation of its decision by mail or email. If the receiving PHA reports that the family is not yet under HAP contract, the HACP 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 HACP will send the receiving PHA a written confirmation of its decision by mail or email.~~

~~Among other considerations as to whether to accept late billing will be~~ The HACP 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 ~~HACPPHA~~.

### **Monthly Billing Payments [24 CFR 982.355(e), Notice PIH 2016-09]**

~~If the receiving PHA is administering the family's voucher, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of 80 percent of the initial PHA ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of administrative fee for which the receiving PHA may bill [24 CFR 982.355(e)(2)].~~

~~If the receiving PHA is administering the family's voucher, the~~ The initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within thirty (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 (5<sup>th</sup>) 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 receiving PHA must receive subsequent payments no later than the fifth business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.~~

The initial PHA may not terminate or delay making payments under existing portability billing arrangements as a result of over leasing or funding shortfalls. The PHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

## HACP Policy

The HACP will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the HACP that direct deposit is not acceptable to them. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire thirty (30) calendar days from the new expiration date of the initial PHA's voucher.

## **Annual Updates of Form HUD-50058**

If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family. The initial PHA must continue paying the receiving PHA based on the last form HUD-50058 received, unless instructed otherwise by HUD. The initial PHA may seek absorption of the vouchers by following steps outlined in Notice PIH 2016-09.

### **Submission of Annual & Interim Reexaminations – Form HUD-50058 [Notice PIH 2016-09(11)(b)]**

~~The receiving PHA must send the initial PHA a copy of the updated Form HUD-50058 at each reexamination for the duration of the time the receiving PHA is billing the initial PHA on behalf of the family. Receiving PHAs send the updated HUD-50058 regardless of whether there is a change in the billing amount. A copy of Form HUD-50058 must also accompany the submission of a portability form (HUD-52665) reporting any changes in the billing amount.~~

~~The updated form HUD-50058 must be sent to the initial PHA no later than ten (10) business days following the effective date of the reexamination. For special purpose vouchers, the receiving PHA must maintain the appropriate special purpose codes on the HUD-50058 while billing [24 CFR 982.355(g)(1)].~~

### **Receiving PHA Fails to Send Updated HUD-50058 on Time [Notice PIH 2016-09(11)(c)]**

~~If the receiving PHA fails to send the updated form HUD-50058 on time, the initial PHA must continue paying the receiving PHA based on the last Form HUD-50058 received, unless otherwise instructed by HUD. Initial PHAs make a first attempt at resolving any late submissions of the updated 50058 with the receiving PHA. If such attempts fail to result in a resolution, the initial PHAs may seek assistance from their local PIH field office. If assistance from the local PIH field office also fails to result in a resolution, the initial PHA may seek absorption of the vouchers in question by following the steps outlined in the HUD HCV Guidebook Moves and Portability Chapter.~~

### **Denial or Termination of Assistance [24 CFR 982.355(c)(17)]**

At any time, either the initial PHA or the receiving PHA may make a determination to deny or terminate assistance with the family in accordance with 24 CFR 982.552 and 24 CFR 982.553. 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 [24 CFR 982.355(~~b~~10)]. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HDU before refusing any incoming portable families [24 CFR 982.355(b)].

Administration of the voucher must be in accordance with the receiving PHA's policies. This requirement also applies to policies of Moving to Work agencies. The receiving PHA procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving PHA waiting list is not used [24 CFR 982.355(c)(10)]. The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA [24 CFR 982.355(c)(12)], and the receiving PHA's policies on extensions of the voucher term apply [24 CFR 982.355(c)(14)].

~~The receiving PHA's procedures and preferences for selection among eligible applicants do not apply, and the receiving PHA's waiting list is not used [24 CFR 982.355(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(10)], and the amount of the family's housing assistance payment is determined in the same manner as for other families in the receiving PHA's voucher program [24 CFR 982.355(e)(2)].~~

### **Responding to Initial PHA's Request [24 CFR 982.355(e)(3), Notice PIH 2016-09]**

The receiving PHA must respond via email or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed [24 CFR 982.355(c)(3)]. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision at a later date without the initial PHA's consent [24 CFR 982.355(c)(4)].

### **HACP Policy**

The HACP will use email, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

### **Initial Contact with Family**

When a family moves into the PHA's jurisdiction under portability, the family is responsible for promptly contacting the PHA and complying with the PHA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving PHA's voucher [24 CFR 982.355(c)(8)].

If the voucher issued to the family by the initial PHA has ~~already expired, the receiving PHA must contact the initial PHA to determine if it will extend the voucher~~ [24 CFR 982.355(c)(13)]. An informal hearing is not required when a voucher has expired without the family leasing a unit. when the family arrives at the receiving PHA, the receiving PHA must contact the initial PHA to determine whether it will extend the voucher term [Notice PIH 2016-09(10)(d)]. ~~If the initial PHA extends the voucher, the receiving PHA processes the ported family and the receiving PHA's voucher expiration date will be based on the initial PHA's extended deadline.~~

If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing [Notice PIH 2016-09]. (For more on this topic, see later under "Denial or Termination of Assistance.")

### **Briefing**

HUD allows the receiving PHA to require a briefing for an incoming portable family as long as the requirement does not unduly delay the family's ~~housing search and reasonable accommodation requests are granted for persons with disabilities.~~ [Notice PIH 2016-09].

## **HACP Policy**

The HACP will not require the family to attend a briefing. The HACP 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 HACP's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process. The HACP will suggest that the family attend a full briefing at a later date.

## **Rescreening**

Receiving PHAs may refuse to process a portability move as a result of applying their own policies for denial or termination of assistance [24 CFR 982.552, 24 CFR 982.553]. The receiving PHA may refuse to assist a portability family by referring the family back to the initial PHA, or terminate the family's HCV participation, on any of the grounds in 24 CFR 982.552 or 2982.553.

## **HACP Policy**

The HACP will conduct a criminal background and rental history check on all household members porting into its jurisdiction who are age eighteen (18) and older. Said criminal background checks are subject to HACP eligibility requirements.

The receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit until the rescreening processes are completed. However, receiving PHAs may take subsequent action against the family (as explained in the preceding paragraph) based on the results of the rescreening. If the receiving PHA takes action against the family, the receiving PHA is required to provide the ported family with the opportunity to request an information hearing (if the family is participant) or an informal review (if the family is an applicant) in accordance with 24 CFR 982.554 or 982.555.

## **HACP Policy**

### ***No Signed HAP Contract & Initial Billing Deadline Has Not Expired***

If the head of household fails the criminal background and/or rental history check, the family has not yet signed a HAP contract, and the initial billing deadline has not expired, the HACP will return the family to the initial PHA. If an adult family member (other than the head of household) fails the criminal background and rental history check, the head of household will have the option to remove said household member from its assisted household and continue with the portability process. If the head of household refuses to remove the household member who failed the criminal background and rental history check, the HACP will return the family to the initial PHA.

### ***No Signed HAP Contract & Initial Billing Deadline Has Expired***

If any adult household member fails the criminal background and/or rental history check, the family has not yet signed a HAP contract, and the initial billing deadline has expired, the HACP will absorb the family and take subsequent action in the form of a termination notice or withdrawal notice in accordance with 24 CFR 982.554 or 982.555.

### ***Signed HAP Contract (Regardless of the Initial Billing Deadline)***

If any adult household member fails the criminal background and/or rental history check and the results were returned after the HAP contract was signed, the HACP will take subsequent action in the form of a termination notice or withdrawal notice in accordance with 24 CFR 982.554 or 982.555. If the HACP is billing the initial PHA, it will also notify the initial PHA of said action via the submission of an updated form HUD-52665 and HUD-50058 (if the billing amount changes).



## Income Eligibility and Reexamination

The receiving PHA does not ~~have to re-determine~~ income eligibility for a participant family ~~that was already receiving assistance in the initial PHA's voucher program [24 CFR 982.355(c)(9)].~~ If the receiving PHA opts to conduct a new reexamination for a current participant family, the receiving PHA ~~may not delay issuing the family a voucher or otherwise delay approval of a unit [24 CFR 982.355(c)(11)].~~ ~~Receiving PHAs may choose to conduct a new income reexamination for a participant family. In such cases, the receiving PHA must not delay issuing the family a voucher or otherwise delay approval of a unit until those processes are completed [24 CFR 982.355(c)(11)].~~ However, the PHA ~~may take subsequent action against the family based on the results (e.g., recalculating the HAP payment based on updated income information).~~

~~In the case of an applicant family, the receiving PHA may delay issuing a voucher or otherwise delay approval of a unit only if it is necessary to re-determine income eligibility.~~

## HACP Policy

For any family moving into its jurisdiction under portability, the HACP will not conduct a new reexamination of family income and composition unless the family is an applicant and HACP cannot otherwise confirm that the family is income eligible for admission to the program. However, the HACP will not delay issuing the family a voucher for this reason. Nor will the HACP delay approving a unit for the family until the reexamination process is complete unless the family is an applicant and the HACP 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 HACP will rely upon any verification 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 one hundred-twenty (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 promptly issue the family a voucher [24 CFR 982.355(c)(13), ~~Notice PIH 2016-09(10)(f)~~]. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher [24 CFR 982.355(c)(15)]. ~~and as required in 24 CFR 982.303, if the family submits a request for tenancy approval during term of the voucher, the PHA must suspend the term of that voucher [24 CFR 982.355(c)(15)].~~ The receiving PHA, in accordance with its own subsidy standards, determines the size of the voucher (that is the number of bedrooms or unit size for the family) [24 CFR 982.355(c)(12), ~~Notice PIH 2016-09(10)(f)~~].

## Timing of Voucher Issuance

HUD expects the receiving PHA to ~~process the paperwork and~~ issue the family a voucher within two (2) weeks ~~after receiving the family's paperwork from the initial PHA if of receiving the HUD-52665 and supporting documentation provided~~ the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures [Notice PIH 2016-09].

## HACP Policy

When family ports into its jurisdiction, the HACP 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 HACP's procedures. The HACP 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 thirty (30) calendar days from the expiration date of the initial PHA's voucher [24 CFR 982.355(c)(13)]. If the initial PHA extends the term of its voucher, the receiving PHA's may not expire before thirty (30) days from the new expiration date of the initial PHA's voucher [Notice PIH 2016-09].

## HACP Policy

~~The HACP will generally issue a voucher with the initial PHA's issuance date and provide the additional thirty (30) day extension if the initial PHA's voucher expires in less than thirty (30) days from receipt of the completed portability packet. The voucher will expire thirty (30) calendar days from the expiration date of the initial PHA's voucher. If the initial PHA extends the term of the voucher, the HACP's voucher will expire thirty (30) calendar days from the new expiration date of the initial PHA's voucher.~~

### ~~Suspension of the Voucher (Also Known as Tolling)~~

~~Receiving PHAs must suspend the voucher when an incoming portability participant/applicant submits a Request for Tenancy Approval (RTA) form [24 CFR 982.355(e)(15), Notice PIH 2016-09(5)].~~

### *Voucher Extensions [24 CFR 982.355(c)-(614), Notice ~~2012~~2016-09-42]*

~~The receiving PHA may subsequently extend its own voucher's term. Any extensions of search time provided by the receiving PHA are only valid for the family's search in the receiving PHA's jurisdiction. The receiving PHA must notify the initial PHA of any extensions of the voucher term [24 CFR 982.355(e)(14)]. The receiving PHA may also request that the initial PHA extend the term of the initial voucher, however, the initial PHA is under no obligation to do so.~~

~~When extending the voucher, receiving PHAs need to consider the billing deadline. The receiving PHA must ensure that any voucher expiration date leaves sufficient time to process a Request for Tenancy Approval, execute the HAP contract, and cover the anticipated delivery time (if the PHA is not submitting the billing information by fax or email) of the initial billing [Notice PIH 2016-09(10)(g)]. If the initial billing is not received by the deadline date, the receiving PHA will generally have to absorb the voucher unless the initial PHA accepts the late billing. Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on ~~extensions~~extensions of the voucher term apply. The receiving PHA must inform the initial PHA of any extension granted to the term of the voucher. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to ~~process~~process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.~~

## HACP Policy

The HACP generally will not extend the term of the voucher that it issues to an incoming portable family unless the HACP 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. ~~Incoming portable families wishing to extend their voucher term will be referred to their initial PHA.~~

The HACP will consider an exception to this policy as a reasonable accommodation to a person with disabilities (see Chapter 2).

### ~~Voucher Suspensions [24 CFR 982.303, 24 CFR 982.355(c)(15)] Suspension of the Voucher (Also Known as Tolling)~~

~~If the family submits a request for tenancy approval during the term of the receiving PHA's voucher, the PHA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for PHA approval of the tenancy until the date the PHA notifies the family in writing whether the request has been approved or denied [24 CFR 982.4(b)] (see Section 5-II.E).~~

## **Notifying the Initial PHA**

The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher [24 CFR 982.355(c)(16)]. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose [Notice PIH 2016-09]. (For more on this topic and the deadline for notification, see below under "Administering a Portable Family's Voucher.")

If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA ~~[Notice PIH 2016-09(10)(i)]~~. In such a case, the voucher of record for the family is once again the voucher originally issued by the initial PHA, ~~and the initial PHA's policies apply.~~ Any extensions ~~of the initial PHA's voucher to allow the family additional search time to return to the initial PHA's jurisdiction or to move to another jurisdiction are at the discretion of the initial PHA. The initial PHA must apply its own policies on moves for families that decide not to use their voucher to port to another jurisdiction 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(10)(i)].~~

## **Administering a Portable Family's Voucher**

### ~~Portability Billing [24 CFR 982.355(e)]~~

To cover assistance for a portable family that was not absorbed, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving PHA's program is determined in the same manner as for other families in the receiving PHA's program.

The receiving PHA may bill the initial PHA for the lesser of 80 percent of the initial PHA's ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of 80 percent of the initial PHA's prorated ongoing administrative fee or 100 percent of the receiving PHA's ongoing administrative fee).

If both PHAs agree, the PHAs may negotiate a different amount of reimbursement.

### **HACP Policy**

Unless the HACP negotiates a different amount of reimbursement with the initial PHA, the HACP will bill the initial PHA the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

### ***Initial Billing Deadline***

If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) in time that the notice will be **received** no later than ninety (90) days following the expiration date of the family's voucher issued by the initial PHA [Notice PIH 2016-09]. This deadline may be extended for thirty (30) additional days if the delay is due to suspension of the voucher's term (see Initial Billing Section). A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or email.

### **HACP Policy**

The HACP will send its initial billing notice by fax or email, if necessary, to meet the billing deadline but will also send the notice by regular mail.

If the receiving PHA fails to send the initial billing by the deadline, it is required to absorb the family into its own program unless (a) the initial PHA is willing to accept the late submission or (b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over leased) [Notice PIH 2016-09]. The initial PHA must enter the date by which the initial billing must be received by the initial PHA on Part I, line 9 of the form [24 CFR 982.355(e)(1)&(5), Notice PIH 2016-09(14)]. The receiving PHA must complete and send Part II of Form HUD-52665 with sufficient time so that it is received by the initial PHA on or before the initial billing deadline [Notice PIH 2016-09(14)(a)].

The receiving PHA must: (1) complete and send Part II of the Form HUD-52665 and (2) attach a copy of the new Form HUD-50058 [Notice PIH 2016-09(14)(a)]. Part II-B of the form HUD-52665 has several options and more than one of those options may be applicable to each receiving PHA submission of the form. As it relates to the initial portability billing submission, both options 3 and 10 under Part II-B must be completed [Notice PIH 2016-09(14)(a)].

The initial billing submission must be received by the initial PHA no later than ninety (90) days following the expiration date of the initial PHA's voucher [Notice PIH 2016-09(14)(b)]. In cases where suspension of the term of the voucher will delay the initial billing submission date, 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 suspension of the voucher term [Notice PIH 2016-09(14)(b)]. If the receiving PHA meets these requirements, the initial PHA must extend the billing deadline by thirty (30) days [Notice PIH 2016-09(14)(b)]. If the initial PHA has not received the portability form within the new thirty (30)-day deadline, the initial billing is late.

### **HACP Policy**

The HACP will send its initial billing notice primarily by email, unless the initial PHA requires another communication method (fax or mail), to meet the billing deadline.

The initial PHA is generally not required to honor initial billings that are not received by the initial billing deadline. If the initial PHA has not received a billing notice by the deadline and determines that it will not accept a late billing, the initial PHA must inform the receiving PHA of this decision in writing. If the initial PHA still subsequently receives a late billing notice on behalf of the family, it returns the late Form HUD-52665 to the receiving PHA. A receiving PHA that failed to send the initial billing by the billing deadline is generally 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).

### ***Ongoing Notification Responsibilities [Notice PIH 2016-09]***

**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.

### **HACP Policy**

The HACP will send a copy of the updated HUD-50058 by regular mail no later than ten (10) business days after the effective date of the reexamination.

**Change in Billing Amount.** The receiving PHA is required to notify the initial PHA, using HUD-52665, must send a new Form HUD-52665 to report a of any change in the billing amount along with the form HUD-50058. As it relates to changes in the HAP amount, both options 4 and 10 under Part II-B of the form HUD-52665 must be completed. Examples of a change in the billing amount could include (but are not limited to) 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 ten (10) business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within ten (10) days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled. Receiving PHAs must notify the initial PHA of changes in the billing amount no later than ten (10) business days following the effective date of the change. If the receiving PHA fails to send the Form HUD-52665 and Form HUD-50058 within ten (10) business days following the effective date of the HAP change, the initial PHA is not responsible for paying any increase in the monthly billing amount incurred prior to the notification. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled.



## **HACP Policy**

~~The HACP will send a copy of the updated forms HUD-52665 and HUD-50058 by a secured email method at the same time the HCV family and owner are notified of the reexamination results.~~

### ***Late Payments [Notice PIH 2016-09]***

If the initial PHA fails to make a monthly payment for a portable family by the fifth (5<sup>th</sup>) 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.

~~The initial PHA must pay the initial billing amount within thirty (30) calendar days of receipt of Form HUD-52665 [24 CFR 982.355(e)(2) and Notice PIH 2016-09(13)]. Subsequently, the initial PHA must pay no later than the fifth business day of each month for each month that the billing arrangement is in effect [Notice PIH 2016-09(13) & (15)(a)]. The payment must be provided in a form and manner that the receiving PHA is able to accept [Notice PIH 2016-09(15)(a)].~~

~~HUD may transfer funds for assistance to ported families to the receiving PHA from funds available under the initial PHA's ACC [24 CFR 982.355(f)(1)]. Upon request from the receiving PHA, HUD may exercise this authority in cases where the initial PHA fails to comply with the initial and subsequent monthly billing payment due dates. Notwithstanding the transfer policies outlined in the HUD HCV Guidebook Moves and Portability Chapter, failure to comply with HUD's financial procedures, including the billing and payment deadlines outlined, may also result in the reduction of administrative fees.~~

### ***Overpayments [Notice PIH 2016-09]***

In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

- Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA.
- Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2016-09.

~~If billing payments have continued for billing arrangements no longer in effect, HUD may take the following actions as outlined in the HUD HCV Guidebook Moves and Portability Chapter:~~



- ~~Direct the receiving PHA not to utilize their administrative fee reserve account in accordance with 24 CFR 982.155(b)(3).~~
- ~~Reduce the receiving PHA's administrative fees by up to ten (10) percent of the monthly billing amount (HAP and Administrative Fee) in question for each month the payments continued after the billing arrangement was terminated. The reduction would be applied to the PHA's prorated administrative fee (assuming that a pro-ratio factor applies to the PHA administrative fees during this period). HUD will consider the circumstances of the particular case in making this determination. For example, if the receiving PHA was billing the initial PHA \$600 a month on behalf of a family and collected four monthly billing payments beyond the billing arrangement termination date (for a total of \$2,400), the receiving PHA is responsible for returning \$2,400 to the initial PHA. In addition, HUD may reduce the PHA's administrative fee by up to \$240 as sanction for failing to terminate the billing arrangement in a timely manner.~~

### ***Denial or Termination of Assistance***

At any time, the receiving PHA may make a determination to deny or terminate assistance to a portable family for family action or inaction [24 CFR 982.355(c)(17)].

In the case of a termination, the PHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than ten (10) business days following the effective date of the termination of the billing arrangement [HUD 52665; Notice PIH 2016-09]. The receiving PHA must send an updated form HUD-52665 to the initial PHA no later than ten (10) business days following the effective date of the termination of the billing arrangement [Notice PIH 2016-09(16)(a)]. As it relates to terminating a billing arrangement, Part II-B options 7, 8, or 9 of form HUD-52665 may be applicable.

### **HACP Policy**

If the HACP elects to deny or terminate assistance for a portable family, the HACP will notify the initial PHA within ten (10) business days after the informal review or hearing if the denial or termination is upheld. The HACP will base its denial or termination decision on the policies set forth in Chapter 3 or Chapter 12, respectively. The informal review or hearing will be held in accordance with the policies in Chapter 16. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

### **Absorbing a Portable Family**

The receiving PHA may absorb an incoming portable family into its own program when the PHA executes a HAP contract on behalf of the family or at any time thereafter providing that ~~(a) the PHA has funding available under its annual contributions contract (ACC) and (b) absorbing the family will not result in over-leasing~~ [24 CFR 982.355(d)(1), Notice PIH 2016-09].

If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vii)].

If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, the receiving PHA must send an updated form HUD-52665 to the initial PHA no later than ten (10) business days following the effective date of the termination of the billing arrangement [Notice PIH 2016-09].

~~Although a receiving PHA notifies the initial PHA of its intent to absorb an incoming family early in the portability process, a PHA does not technically "absorb" a family into its program until the receiving PHA executes a HAP contract on behalf of the family in the receiving PHA's jurisdiction.~~

~~If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income-targeting obligation of the receiving PHA [24 CFR 982.201(b)(2)(vi)]. Following the absorption of an incoming portable family, the family is no longer considered a ported family. The initial PHA is no longer involved with the family's subsidy. There is no billing and no communication on other details of the family's occupancy between the initial and receiving PHAs and the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)(1)].~~

~~If the receiving PHA absorbs a family after providing assistance for the family under a billing arrangement with the initial PHA, HUD encourages the receiving PHA to provide adequate advance notice to the initial PHA to avoid having to return an overpayment.~~

~~The receiving PHA must send form HUD-52665 to the initial PHA specifying the effective date of the absorption of the family [Notice PIH 2016-09(10)]. The receiving PHA selects option 2 for absorption at admission and option 8 for absorptions after it has been billing the initial PHA under Part II-B of such form.~~

### **HACP Policy**

If the HACP decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, the HACP 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 HACP decides to absorb a family after the execution of the HAP contract, it will provide the initial PHA with a minimum of thirty (30) days' advanced notice, but no later than ten (10) business days following the effective date of the termination of the billing arrangement and send the requisite form HUD-52665.

Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program [24 CFR 982.355(d)], and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability [24 CFR 982.355(e)(4)].

### **Retroactive Absorptions**

~~Retroactive absorptions are not allowed. However receiving PHAs have ten (10) business days from the effective date of the absorption to send an updated form HUD-52665 to the initial PHA. This may result in absorptions that are retroactive but not no more than ten (10) business days.~~

~~There is one exception to the limitation on retroactive absorptions. If an initial PHA requests that the receiving PHA absorb ported vouchers as a way of avoiding terminations of assistance due to a funding shortfall, the receiving PHA may retroactively absorb families for which the receiving PHA was previously billing. In these cases, the receiving PHA reimburses the initial PHA for payments back to the effective date of the absorption but only for the current calendar year. This cost saving strategy is consistent with PIH Notice 2011-28, Cost Savings Measures in the Housing Choice Voucher (HCV) Program.~~

# CHAPTER 11: REEXAMINATIONS

## INTRODUCTION

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.

Part IV: Non-Interim Reexamination Transactions. This part describes transactions that do not entail changes to the family's adjusted income.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this plan, apply to both annual and interim reexaminations.

## PART I: ANNUAL REEXAMINATIONS [24 CFR 982.516]

### 11-I.A. OVERVIEW

The PHA must conduct a reexamination for all families at least annually. This includes gathering and verifying current information about family composition, income, and expenses. Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for biennial reexaminations, the information to be collected and verified, and reexamination effective dates, unless a waiver is received. This includes obtaining and documenting the tenant file third-party verification of the following components, or document in the tenant file why third-party verification was not available:

Component	Updates at Annual Reexamination
Release and consent	Collect updated HUD-9886 signed by all adult household members
Changes in income, assets, deductions, expenses, and household characteristics	<ul style="list-style-type: none"><li>Obtain declaration of income, assets, deductions, expenses and household characteristics.</li><li>Review for changes.</li><li>Follow verification hierarchy to verify and calculate income, assets, deductions, expenses, and household characteristics.</li></ul>
Changes in family composition	<ul style="list-style-type: none"><li>Review and update the voucher size on the HUD-50058.</li><li>If household size increases, the family may be overcrowded in their current unit.</li></ul>
Utility allowance	Verify that the utility allowance is correct based on lower of the voucher size or unit size and using the PHA's current Utility Allowance Schedule (see 16-II.B.)
Payment Standard	Verify that the payment standard is correct based on lower of the voucher size or unit size and using the PHA's current Payment Standard Schedule (see 16-II.C.)

~~Based on this updated information, the family's income and rent must be recalculated. This part discusses the schedule for biennial reexaminations, the information to be collected and verified, and reexamination effective dates.~~

Unlike when performing an interim reexamination or at intake, at annual reexamination, the PHA must determine the income of the family for the previous twelve (12) month period, except where the PHA uses a streamlined income determination. Income from assets, however, is always anticipated, irrespective of the income examination type [Notice PIH 2023-27]. PHAs also have the option of using a "safe harbor" income verification from another federal means-tested program to verify gross annual income. Chapter 7 contains the PHA's policies related to streamlined income determinations and the use of safe harbor income verifications.

### HACP Policy

Through its Moving to Work (MTW) authority, the HACP has HUD-approval to conduct a reexamination of family income and composition at least biennially for all families except for some special purpose voucher recipients such as VASH, FUP, and Mainstream. The HACP has applied to the HUD field office to use this MTW activity for these special purpose vouchers, however, has yet to receive approval.

## **11-I.B. SCHEDULING ANNUAL REEXAMINATIONS**

The PHA must establish a policy to ensure that the reexamination for each family is completed *within* a twelve (12) or twenty-four (24) month period, as approved by MTW authority, and may require reexaminations more frequently [HCV GB p. 12-1].

### HACP Policy

The HACP will begin the biennial reexamination process one hundred-twenty (120) days in advance of its scheduled effective date. Generally, the HACP will schedule reexamination effective dates to coincide with the family's anniversary date.

*Anniversary date* is defined as twelve (12) months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

*Biennial date* is defined as twenty-four (24) months from the effective date of the family's last annual reexamination.

If the family moves to a new unit, the HACP will perform a new reexamination.

The HACP also may schedule a reexamination for completion prior to the anniversary date for administrative purposes.

### **Notification of and Participation in the Annual Reexamination Process**

The PHA is required to obtain the information needed to conduct reexaminations. How that information will be collected is left to the discretion of the PHA. However, PHAs should give tenants who were not provided the opportunity the option to complete Form HUD-92006 (Supplemental and Optional Contact Information for HUD-Assisted Housing Applicants) at this time [Notice PIH 2009-36].

## HACP Policy

Families generally are notified of their approaching reexamination through a letter sent via first-class mail. The letter will also contain information on where to obtain the reexamination packet on the HACP website as well as other required documentation, and how to submit the completed packet to the HACP. If conducting the reexamination electronically poses a hardship because of a family member's disability, the family should contact the HACP to request a reasonable accommodation (see Chapter 2).

If a family fails to submit the reexamination packet along with all of the required documentation by the stated deadline, or if the notice is returned by the post office with no forwarding address, a notice of termination (see Chapter 12) will be sent to the family's address of record, and to any alternate address provided in the family's file. An advocate, interpreter, or other assistant may assist the family in the reexamination process. The family and the PHA must execute a certification attesting to the role and the assistance provided by any such third party.

## **11-I.C. CONDUCTING ANNUAL OR BIENNIAL REEXAMINATIONS (as Amended by MTW Authority)**

As part of the annual or biennial reexamination process, families are required to provide updated information to the PHA regarding the family's income, expenses, and composition [24 CFR 982.551(b)].

## HACP Policy

Families will be asked to submit all required information (as described in the reexamination notice) to the HACP before the deadline. The required information will include a HACP-designated reexamination form, ~~an Authorization for the Release of Information/Privacy Act Notice (HUD-9886), the HACP's authorization form(s) that enables HACP to verify information required by HUD, but not covered under HUD's release form,~~ 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 must be provided within ten (10) business days of receiving the reexamination packet or the HACP's request. 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 (plus any extensions), the family will be sent a notice of termination (See Chapter 12).

Additionally, HUD recommends that at annual reexaminations PHAs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

## HACP Policy

At the annual reexamination, the HACP 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. The HACP will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the PHA proposes to terminate assistance based on lifetime sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 12.)

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the PHA has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an biennial basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status
- ~~Criminal Background Check~~

### ~~Criminal Background Checks~~

~~Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e) (1) (ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.~~

~~If adding a new family member to the unit causes overcrowding according to the housing quality standards (HQS) (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 CFR 982.403].~~

~~As part of its ongoing quality control audit process, the PHA may request these form if an audit determines that the file copies are missing or incomplete. If adding a new family member to the unit causes overcrowding according to the Housing Quality Standards (HQS) (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 CFR 982.403].~~

## **11-I.D. DETERMINING ONGOING ELIGIBILITY OF CERTAIN STUDENTS [24 CFR 982.552(b)(5)]**

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

If a student enrolled in an institution of higher education is under the age of twenty-four (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 the required annual or biennial 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~~their ~~parents~~parents 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.



## HACP Policy

During the reexamination process, the HACP will determine the ongoing eligibility of each student who is subject to the eligibility restrictions in 24 CFR 5.612 by reviewing the student's individual income as well as the income of the student's parents. If the student has been determined "independent" from his/her parents or is considered a vulnerable youth based on the policies in Sections 3-II.E and 7-II.E, the parents' income will not be reviewed.

If the student is no longer income eligible based on his/her own income or the income of his/her parents, the student's assistance will be terminated in accordance with the policies in Section 12-I.D.

If the student continues to be income eligible based on his/her own income and the income of his/her parents (if applicable), the HACP will process a reexamination in accordance with the policies in this chapter.

### 11-I.E. CALCULATING ANNUAL INCOME AT ANNUAL REEXAMINATION [24 CFR 5.609(C)(2) and Notice PIH 2023-27]

The PHA must determine the income of the family for the previous twelve (12) month period and use this amount as the family income for annual reexaminations, except where the PHA uses a streamlined income determination as indicated in Chapter 7 of this policy. The PHA may also use Safe Harbor income determinations dated within the last twelve (12) months from a means-tested federal public assistance program at annual reexamination as outlined in Chapter 7 of this policy.

Except when using streamlined or Safe Harbor income determinations, in determining the income of the family for the previous twelve (12) month period, any change of income since the family's last annual reexamination, including those that did not meet the threshold to process an interim reexamination in accordance with PHA policies and 24 CFR 5.657(c) or 960.257(b) must be considered.

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

A change in income may be a loss of income or the addition of a new source of income. Changing to a different employer in the prior year does not necessarily constitute a change if the income earned from either employer is substantially the same. The PHA should look at the entirety of the family's unearned income and earned income from the prior year in which earned income may have been one constant job or many different jobs that start and stop.

Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law. See Chapter 6 for PHA policies on when the COLA is applied and Chapter 7 on streamlined determination of income for inflationary adjustments.

Notice PIH 2023-27 lists the following steps to calculate both earned and unearned income at annual reexamination.

**Step 1:** The PHA determines annual income for the previous 12-month period by reviewing the following information:

- The EIV Income Report pulled within one hundred twenty (120) days of the effective date of the annual reexamination;
- The income reported on the most recent HUD–50058; and
- The amount of prior-year income reported by the family on the PHA’s annual reexamination paperwork.

**Step 2:** The PHA takes into consideration any interim reexamination of family income completed since the last annual reexamination.

- If there was an interim reexamination performed, the PHA must use the annual income from the interim to determine the family’s total annual income, provided there are no additional changes.
- If the PHA did not perform an interim or there have been changes since the last reexamination, the PHA moves to Step 3.

**Step 3:** If there were changes in annual income not processed by the PHA since the last reexamination, the PHA must use current income. The family will be required to report their income for the prior year and whether there have been permanent changes.

If there are no reported changes to an income source, the PHA may use documentation of prior-year income to calculate the annual income. For example, the PHA may use the following documentation:

- EIV + self-certification (wages, Supplemental Security Income (SSI), Social Security, and unemployment)
- Current written third-party verification from the source verifying prior-year income that is dated within 120 days of receipt by the PHA, for example:
  - Year-end statements
  - Paycheck with year-to-date amounts
  - Tax forms (Form 1040, W2, 1099, etc.)

If there are reported changes by the family or the PHA notes discrepancies between EIV and what the family reports, the PHA must follow the verification hierarchy (described in Chapter 7) to document and verify income. Exhibit 11-1 provides detailed examples of how the PHA calculates income from different sources at annual reexamination using the above method.

### **HACP Policy**

When income is calculated using a streamlined income determination or Safe Harbor determination from a means-tested federal public assistance program in accordance with PHA policies in Chapter 7, the above is not applicable. However, where the family disagrees with the HACP or other agency’s determination of income or the HACP has other reason to use third-party verification in these circumstances, then the above will apply.

## 11-~~I~~~~EE~~. EFFECTIVE DATES

The PHA must establish policies concerning the effective date of changes that result from a reexamination [24 CFR 982.516].

### HACP Policy

In general, an *increase* in the family share of the rent that results from a reexamination will take effect on the family's anniversary date, and the family will be notified at least thirty (30) days in advance. ~~The increase generally will be effective on the first of the month following the thirty (30) day notice to the family.~~

~~If a family fails to report a change within the required timeframes, or fails to provide all required information within the required timeframes, 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 less than thirty (30) days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the thirty (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 thirty (30) day notice is required.
- If the HACP chooses to schedule a reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HACP, but will always allow for the thirty (30) day notice period.
- If the family causes a delay in processing the reexamination, *increases* in the family share of the rent will be applied retroactively, to the scheduled effective date of the 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 a reexamination will take effect on the family's anniversary date.

- If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.
- If the PHA chooses to schedule a reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the PHA.
- If the family causes a delay in processing the reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the PHA by the date specified, and this delay prevents the PHA from completing the reexamination as scheduled.

## PART II: INTERIM REEXAMINATIONS [24 CFR 982.516]

### 11-II.A. OVERVIEW

Family circumstances may change 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].~~

A family may request an interim determination of family income or composition because of any changes since the last determination. The PHA must conduct any interim reexamination within a reasonable period of time after the family request or when the PHA becomes aware of a change in the family's adjusted income that must be processed in accordance with HUD regulations. What qualifies as a "reasonable time" may vary based on the amount of time it takes to verify information, but the PHA generally should conduct the interim reexamination not longer than thirty (30) days after the PHA becomes aware of changes in income.

Notice PIH 2023-27 changes the conditions under which interim reexaminations must be conducted, codifies when interim reexaminations should be processed and made effective, and requires related changes for annual reexaminations and streamlined income determinations. When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income.

~~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

#### Reporting

PHAs must require families to report household composition changes; however, PHAs determine the timeframe in which reporting happens [Notice PIH 2023-27]. The PHA must adopt policies prescribing when and under what conditions the family must report changes in income and family composition [24 CFR 960.257(b)(5)].

~~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 housing composition. However, due to family obligations under the program, the PHA has limited discretion in this area.~~

#### HACP Policy

~~The HACP will conduct interim reexaminations to account for any changes in household composition that occur between reexaminations.~~

All families must report all changes in family and household composition that occur between biennial and annual reexaminations within ten (10) business days of the change.

The PHA will conduct interim reexaminations to account for any changes in household composition that occur between biennial and 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 CFR 982.551(h)(2)].

#### **HACP Policy**

~~The family must inform the HACP of the birth, adoption, or court-awarded custody of a child within ten (10) business days.~~

### **New Family and Household Members Requiring Approval**

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request PHA approval to add a new family member [24 CFR 982.551(h)(2)] or other household member (live-in aide or foster child) [24 CFR 982.551(h)(4)].

Although the PHA must verify aspects of program eligibility when any new family member is added, the Streamlining Final Rule removed the requirement that PHAs conduct a reexamination of income whenever a new family member is added. The PHA may state in policy that an income reexamination will be conducted.

~~When any new family member is added, the PHA must conduct a reexamination to determine any new income or deductions associated with the additional family member and to make appropriate adjustments in the family share of the rent and the HAP payment [24 CFR 982.516(e)].~~

If a change in family size causes a violation of Housing Quality Standards (HQS) space standards (see Chapter 8), the PHA must issue the family a new voucher, and the family and PHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the PHA must terminate the family's HAP contract in accordance with its terms [24 CFR 982.403].

#### **HACP Policy**

Families must request HACP 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 thirty (30) consecutive days or ninety (90) cumulative days within a twelve (12) month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the HACP prior to the individual moving into the unit.

The HACP will not approve the addition of a new family or household member unless the individual meets the HACP's eligibility criteria (see Chapter 3) and documentation requirements (see Chapter 7, Part II).

The HACP will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

If the HACP determines an individual meets the HACP's eligibility criteria and documentation requirements, the HACP will provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

If the HACP determines that an individual does not meet the HACP's eligibility criteria or documentation requirements, the HACP 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 HACP will make its determination within ten (10) business days of receiving all information required to verify the individual's eligibility.

### **Departure of a Family or Household Member**

Families must promptly notify the PHA if any family member ~~is~~ (including a live-in aide, foster child, or foster adult) no longer lives in the unit, based on [24 CFR 982.551(h)(3)]. Because household members are considered when determining the family unit (voucher) size [24 CFR 982.402], the PHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit. The PHA must process an interim for all decreases in adjusted income when a family member permanently moves out of the unit.

### **HACP Policy**

If a household member ceases to reside in the unit, the family must inform the HACP within ten (10) business days. This requirement also applies to a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

~~If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the HACP within ten (10) business days.~~

## **11-II.C. CHANGES AFFECTING INCOME OR EXPENSES**

### **Overview**

~~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.~~

Interim reexaminations for changes in income or expenses may 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.

The PHA must estimate the income of the family for the upcoming twelve (12) month period to determine family income for an interim reexamination [24 CFR 5.609(c)(1)]. Policies for projecting income are found in Chapter 6.

### **PHA-Initiated Interim Reexaminations**Interim Decreases [24 CFR 982.516(c)(2) and Notice PIH 2023-27]

~~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.~~

### **HACP Policy**

~~The HACP will conduct interim reexaminations in each of the following instances:~~

~~For families receiving the Earned Income Disallowance (EID), the HACP will conduct an interim reexamination at the start and conclusion of the second twelve (12) month exclusion period (50 percent phase-in period).~~



~~If the family incurs a decrease in household income, which may affect the tenant portion of rent to the landlord.~~

~~If the family incurs an increase in household income **and** is a current HACP HCV Family Self Sufficiency Program participant.~~

~~If at the time of the regularly scheduled reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the HACP will conduct an interim reexamination.~~

~~The HACP 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.~~

~~Families are required to report all increases in household income and deductions of ten (10) percent or greater within thirty (30) calendar days of the change.~~

A family may request an interim determination of family income for any change since the last determination. However, the PHA may decline to conduct an interim reexamination if the PHA estimates the family's adjusted income will decrease by an amount that is less than 10 percent of the family's adjusted income. The PHA may set a lower threshold in PHA policy such as performing an interim for any decreases in adjusted income, although HUD prohibits the PHA from setting a dollar-figure threshold.

However, while the PHA has some discretion, HUD requires that the PHA perform an interim reexamination for a decrease in adjusted income of any amount in two (2) circumstances:

- When there is a decrease in family size attributed to the death of a family member; or
- When a family member permanently moves out of the assisted unit during the period since the family's last reexamination.

In the above circumstances, the PHA must perform an interim reexamination for any decrease in adjusted income.

If the net effect of the changes in adjusted income due to a decrease in family size results in no change or an increase in annual adjusted income, then PHA must process the removal of the household member(s) as a non-interim reexamination transaction without making changes to the family's annual adjusted income.

### **HACP Policy**

The HACP will conduct an interim reexamination when the family's adjusted income has decreased by 3 percent or more unless there is a decrease in income due to family size attributed to the death of a family member or when a family member with income permanently moves out of the assisted unit during the period since the family's last reexamination. The HACP will always process an interim (regardless of the percentage decrease) in the latter two (2) circumstances.

### **Interim Increases [24 CFR 982.516(c)(3) and Notice PIH 2023-27]**

#### **Increases Less than 10 Percent**

PHAs must not process interim reexaminations for income increases that result in less than a 10 percent increase in annual adjusted income.

### **Increases 10 Percent or Greater**

PHAs must conduct an interim reexamination of family income when the PHA becomes aware that the family's adjusted income has changed by an amount that the PHA estimates will result in an increase of 10 percent or more in adjusted income, with the following exceptions:

- PHAs may not consider any increases in earned income when estimating or calculating whether the family's adjusted income has increased, unless the family has previously received an interim reduction during the same reexamination cycle; and
- PHAs may choose not to conduct an interim reexamination during the last three (3) months of a certification period if a family reports an increase in income within three (3) months of the next annual reexamination effective date.

When the family previously received an interim reexamination for a decrease to adjusted income during the same annual reexamination cycle, a PHA has the discretion whether to consider a subsequent increase in earned income.

### **HACP Policy**

When a family reports an increase in their earned income between annual reexaminations, the HACP will not conduct an interim reexamination, regardless of the amount of the increase, and regardless of whether there was a previous decrease since the family's last annual reexamination.

The HACP will process an interim reexamination for any increases in unearned income of 10 percent or more in adjusted income.

The HACP will not perform an interim reexamination when a family reports an increase in income (whether earned or unearned income) within three (3) months of their annual reexamination effective date. However, families who delay reporting income increases until the last three (3) months of their certification period may be subject to retroactive rent increases in accordance with the PHA policies in Chapter 14.

### **Concurrent Increases in Earned and Unearned Income**

When the family reports an increase in both earned and unearned income at the same time, the PHA must look at the earned and unearned income changes independently of each other to determine if an interim reexamination is performed. The PHA will only conduct an interim reexamination when the increase independently meets the 10 percent threshold and all other requirements for performing interim reexaminations. For example, if a family reported increases in both earned and unearned income that overall resulted in a 12 percent increase in their adjusted income, but the change in earned income represented a 7 percent increase and the change in unearned income represented a 5 percent increase, the PHA may not perform an interim for either change since neither change meets the 10 percent threshold amount independently. If the change in unearned income met the 10 percent threshold in this case, the PHA would be required to perform an interim. If the change in earned income met the 10 percent threshold in this case, the PHA would refer to PHA policy to determine whether an interim was required.

### **Cumulative Increases**

A series of smaller reported increases in adjusted income may cumulatively meet or exceed the 10-percent increase threshold, at which point the PHA must conduct an interim reexamination in accordance with PHA policy.

## **Family Reporting**

The PHA must adopt policies consistent with HUD regulations prescribing when and under what conditions the family must report a change in family income or composition [24 CFR 982.516(d)].

PHA policy may require families to report only changes that the family estimates meet the threshold for an interim reexamination or the PHA may establish policies requiring that families report all changes in income and household composition, and the PHA will subsequently determine if the change requires an interim reexamination [Notice PIH 2023-27].

When the PHA determines that an interim reexamination of income is necessary, they must ask the family to report changes in all aspects of adjusted income. For example, if the family is reporting a decrease in adjusted income that is more than 10 percent, but the family also had a change in assets that would result in a change in income, the change in assets must also be reviewed [Notice PIH 2023-27].

## **HACP Policy**

The family will be required to report all changes in income regardless of the amount of the change, whether the change is to earned or unearned income, or if the change occurred during the last three months of the certification period. Families must report changes in income within thirty (30) calendar days of the date the change takes effect. The family may notify the HACP of changes in writing.

Within ten (10) business days of the family reporting the change, the HACP will determine whether the change will require an interim reexamination.

- If the change will not result in an interim reexamination, the HACP will note the information in the tenant file but will not conduct an interim reexamination. The PHA will send the family written notification within ten (10) business days of making this determination informing the family that the HACP will not conduct an interim reexamination.
- If the change will result in an interim reexamination, the HACP will determine the documentation the family will be required to submit based on the type of change reported and HACP policies in Chapter 7. The HACP will ask the family to report changes in all aspects of adjusted income at this time. The family must submit any required information or documents within ten (10) business days of receiving a request from the HCPA. This time frame may be extended for good cause with HACP approval. The HACP will accept required documentation by mail, email, fax, or in person. The HACP will conduct the interim within a reasonable time period based on the amount of time it takes to verify the information.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the PHA determines that an interview is warranted, the family may be required to attend.

## **11-III.D. EFFECTIVE DATES [24 CFR 982.516(e) and Notice PIH 2023-27]**

### **Changes Reported Timely [Notice PIH 2023-27]**

If the family reports a change in family income or composition timely in accordance with PHA policies:

For rent increases, the PHA must provide the family with 30 days advance written notice. The rent increase is effective the first of the month after the end of that 30-day notice period.

Rent decreases are effective on the first month after the date of the actual change leading to the interim reexamination of family income. This means the decrease will be applied retroactively.

## **Changes Not Reported Timely [Notice PIH 2023-27]**

If the family failed to report a change in family income or composition timely in accordance with PHA policies:

- For rent increases, the PHA must implement any resulting rent increases retroactively to the first of the month following the date of the change leading to the interim reexamination of family income.
- For rent decreases, the PHA must implement the change no later than the first rent period following completion of the interim reexamination.

However, the PHA may choose to adopt a policy that would make the effective date of the rent decrease retroactive to the first of the month following completion of the reexamination. PHAs may choose to establish conditions or requirements for when such a retroactive application would apply. PHAs that choose to adopt such policies must ensure the earliest date that the retroactive decrease is applied is the later of:

- The first of the month following the date of the change that led to the interim reexamination; or
- The first of the month following the most recent previous income examination.

In applying a retroactive change in rent as the result of an interim reexamination, the PHA must clearly communicate the effect of the retroactive adjustment to the family so that there is no confusion over the amount of the rent that is the family's responsibility.

## **HACP Policy**

In general, when the family fails to report a change in income or family composition timely, and the change would lead to a rent decrease, the HACP will apply the decrease the first of the month following completion of the interim reexamination.

However, the HACP will apply the results of the interim reexamination retroactively where a family's ability to report a change in income promptly may have been hampered due to extenuating circumstances such as a natural disaster or disruptions to HACP management operations. The HACP will decide to apply decreases retroactively on a case-by-case basis.

When the HACP applies the results of interim decreases retroactively, the HACP will clearly communicate the effect of the retroactive adjustment to the family and may enter into a repayment agreement in accordance with HACP policies.

The HACP will also clearly communicate the effect of the retroactive adjustment to the owner.

## **Family-Initiated Interim Reexaminations**

~~The PHA must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 982.516(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b) (2)].~~

## **Required Reporting**

~~HUD regulations give the PHA the freedom to determine the circumstances under which families will be required to report changes affecting income.~~

### HACP Policy

~~Families are required to report all increases in household income and deductions of ten (10) percent or greater, including new employment, and within thirty (30) calendar days of the change.~~

~~The HACP will only conduct interim reexaminations for families with changes. Families may report changes in income or expenses at any time.~~

### **Optional Reporting**

~~The family may request an interim reexamination of family income or composition any time the family has experienced a change in circumstances since the last determination [24 CFR 982.516(b)(2)]. The PHA must process an interim whenever one is requested by the family [24 CFR 982.516(c)(2)]. However, PHAs may have a policy to process increases in income between annual reexaminations or may have a policy that no interim will be conducted for an increase in income between annual reexaminations [HUD HCV Guidebook, Reexamination Chapter, 2.2]~~

~~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 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.~~

### HACP Policy

~~If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, the HACP will note the information in the tenant file, but will not conduct an interim reexamination.~~

~~If a family reports a change that it was not required to report and that would result in a decrease in the family share of rent, the HACP will conduct an interim reexamination. See Section 11-II.D. for effective dates.~~

~~Families may report changes in income or expenses at any time.~~

## **11-II.D. PROCESSING THE INTERIM REEXAMINATION**

### **Method of Reporting**

#### HACP Policy

~~The family must notify the HACP of changes in writing. If the family provides oral notice, the HACP will also require the family to submit the changes in writing or alternative forms for reasonable accommodation.~~

~~Based on the type of change reported, the HACP will determine the documentation the family will be required to submit. The family must submit any required information or documents within ten (10) business days of receiving a request from the HACP. This time frame may be extended for good cause with HACP approval. The HACP will accept required documentation by mail, by fax, by email or other electronic means, 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 CFR 982.516(e)(1)]. Industry practice typically provides at least thirty (30) days' notice of any increase in tenant payment [HUD HCV Guidebook, Reexaminations Chapter, 3].~~

## HACP Policy

~~If the family share of the rent is to increase:~~

~~The increase generally will be effective on the first of the month following thirty (30) days' notice to the family.~~

~~If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement in accordance with the policies in Chapter 16.~~

~~If the family share of the rent is to decrease:~~

~~The decrease will be effective on the first day of the month following the month in which the change was reported and all required documentation was submitted. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.~~

## PART III: RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

### 11-III.A. OVERVIEW

After gathering and verifying required information for a biennial, 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 CFR 982.516(d)(2), ~~Hap Contract, page 5, section 7.e.2~~ HCV GB, p. 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 CFR 982.505 ~~as amended by MTW~~]

The family share of the rent and HAP calculations must use the correct payment standard for the family, using the lower of the voucher size or the size of unit [HUD HCV Guidebook, Reexamination Chapter, 2.1]. 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 biennial or 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 biennial or 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 CFR 982.505(c)(54)]

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 biennial or annual* reexamination following the change in family unit size.

### HACP Policy

In the event there is a change in the subsidy standards due to reasonable accommodation request being approved, the subsidy standard based on new family unit size would immediately apply.

### Utility Allowances [24 CFR 982.517(d)]

~~A PHA is responsible for establishing and maintain a utility allowance schedule that provides reasonable allowances for tenant paid utilities. The utility allowance is intended to enable participating families to pay typical costs for utilities and services paid by energy conserving households occupying units of similar size and type in the same locality. Chapter 16 discusses how utility allowance schedules are established.~~

~~Any time a change is made in the responsibility for payment of utility expenses or provision of the stove or refrigerator, the owner and the tenant must report the change to the PHA [24 CFR 982.3098(g)(1)]. Any such change requires a new lease and HAP Contract as well as an adjustment in the family's utility allowance [24 CFR 982.308(g)(2)(i)]. 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.~~

~~Because the allowances for utilities and services are subject to change over time, regulations require the utility allowance must be recalculated at reexamination [24 CFR 982.517(e)(2)]. Whether this takes place at the first regular (annual or biennial) reexamination after the utility allowance schedule revision depends upon PHA policy.~~

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.

## HACP Policy

Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual or biennial reexamination after the allowance is adopted.

### **11-III.C. NOTIFICATION OF NEW FAMILY SHARE AND HAP AMOUNT**

~~Reexaminations often result in a change in the Housing Assistance Payment, Tenant Rent, and Total Tenant Payment. At the effective date of the reexamination, the PHA must make appropriate adjustments in the housing assistance payment and notify the tenant and owner of any changes in the amount of the HAP and Tenant Rent [HAP Contract, page 5, section 7.e.2. & 24 CFR 982.516(e)(2)].~~

~~The PHA must notify the owner and family of any changes in the amount of the HAP payment [HUD-52641, HAP Contract]. The notice must include the following information [HCV GB, p. 12-6]:~~

- ~~• The amount and effective date of the new HAP payment~~
- ~~• The amount and effective date of the new family share of the rent~~
- ~~• The amount and effective date of the new tenant rent to owner~~

The family must be given an opportunity for an informal hearing regarding the PHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment [24 CFR 982.555(a)(1)(i)] (see Chapter 16).

## HACP Policy

~~The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment.~~

~~The notice will state the family has the right to request an explanation of how the assistance was calculated and if the family disagrees, they have the right to informal hearing. The notice will include the procedures for requesting an informal hearing.~~

~~The rent change notice will state the procedures for requesting an informal hearing. Upon request, the HACP will provide the family with a breakdown of how the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment were calculated.~~

### **11-III.D. DISCREPANCIES**

During a biennial, annual, or interim reexamination, HACP 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.

## PART IV: NON-INTERIM REEXAMINATION TRANSACTIONS [NOTICE PIH 2023-27]

Families may experience changes within the household that do not trigger an interim reexamination under PHA policy and HUD regulations but which HUD still requires the PHA to report to HUD via Form HUD-50058. These are known as *non-interim reexamination transactions*. In these cases, PHAs will submit a separate, new action code on Form HUD-50058. The following is a list of non-interim reexamination transactions:

- Adding or removing a hardship exemption for the child care expense deduction;
- Updating or removing the phased-in hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction (the phased-in relief will begin at an eligible family's first annual or interim reexamination, whichever is sooner, after January 1, 2024);
- Adding or removing general hardship relief for the health and medical care expense deduction and/or reasonable attendant care and auxiliary apparatus expense deduction;
- Adding or removing a minimum rent hardship;
- Adding or removing a non-family member (i.e., live-in aide, foster child, foster adult);
- Ending a family's EID or excluding 50 percent (decreased from 100 percent) of a family member's increase in employment income at the start of the second 12- month EID period.
- Adding a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Removing a family member and the increase in adjusted income does not trigger an interim reexamination under the final rule;
- Adding/Updating a family or household member's Social Security number; and
- Updating a family member's citizenship status from eligible to ineligible or vice versa, resulting in a change to the family's rent and/or utility reimbursement, if applicable (i.e., family begins receiving prorated assistance or previously prorated assistance becomes full assistance), or updating the prorated rent calculation due to the addition or removal of family members in household with an ineligible noncitizen(s).

PHAs must make all other changes to assets, income, and deductions at the next annual or interim reexamination of income, whichever is sooner.

## EXHIBIT 11-1: CALCULATING INCOME AT ANNUAL REEXAMINATION

### Example 1: Calculating Annual Income at Annual Reexamination Using EIV

Staff are processing the 3/1/2024 annual reexamination for Ruby Myers and her minor daughter, Georgia. No interim reexaminations have been processed, and Ruby has not reported any changes to annual income to the PHA since the 3/1/2023 annual reexamination. The SSA published 2024 COLA is 7 percent.

#### Last reexamination – 3/1/2023 Annual Reexamination

Ruby:

Wages: \$30,000

Georgia:

SSI: \$10,980 (\$915 monthly)

The EIV report pulled on 12/15/2023

Ruby:

Wages Total: \$33,651

Quarter 3 of 2023: \$8,859 (City Public School)

Quarter 2 of 2023: \$8,616 (City Public School)

Quarter 1 of 2023: \$8,823 (City Public School)

Quarter 4 of 2022: \$7,353 (City Public School)

Georgia:

SSI Total: \$10,980

2023 benefit \$915  
monthly

#### Income Reported on Reexamination Application

Ruby:

Wages at City Public School: \$32,000  
(switched jobs but no permanent change to  
amount)

Georgia:

SSI benefits: \$10,980 (no changes)

#### Calculating Ruby's wages:

Step 1: Determine prior annual income from  
EIV (i.e., Q4 2022 through Q3 of 2023:  
\$33,651).

Step 2: Take into consideration any interim  
reexamination of family income completed  
since the last annual reexamination (in this  
case, there have been no interim  
reexaminations processed since the last  
annual reexamination).

#### Calculating Georgia's SSI benefit:

Step 1: Determine the prior annual  
income from EIV (i.e., \$915 x 12  
months: \$10,980).

Step 2: Take into consideration any  
interim reexamination of family income  
completed since the last annual  
reexamination (in this case, there have  
been no interim reexaminations  
processed since the last annual  
reexamination).

Step 3: Ruby certifies that the \$33,651 of wages in EIV is accurate and reflects her current annual income, so the PHA will use \$33,651 for annual wages for the 3/1/2024 annual reexamination given there have been no additional changes to annual income.

Step 3: Ruby certifies the SSI income in EIV is accurate and reflects Georgia's current annual income. The PHA must adjust the prior-year income (2023 SSI benefit) by the 7- percent COLA and will use this amount to calculate annual SSI income for the 3/1/2024 annual reexamination:

COLA: \$64.05 (\$915 x 0.07)

New gross SSI benefit: \$11,748.60 (\$979.05 x 12 months)

If Ruby did not agree with the annual wages reported in EIV, the PHA/MFH Owner would be required to verify her current income in accordance with HUD's verification hierarchy.

#### Summary of Annual Income (as reported on the HUD-50058)

Ruby (Head of Household):

Other Wage: \$33,651

Myers Family Total Annual Income: \$45,399

Georgia (Other Youth Under 18):

SSI: \$11,748

## **Example 2: Calculating Annual Income at Annual Reexamination Using EIV:**

### **Family Disagrees with EIV**

Staff are processing Paul Hewson's 5/1/2024 annual reexamination. Since the last annual reexamination, Paul reported a decrease in annual income that exceeded 10 percent. Last year, Paul reported a decrease in earned income because he transferred from a full-time job at Sasha's Sweets to a part-time job at Viking Bakery. Following HUD's EIV verification hierarchy, staff confirmed Paul was no longer employed at Sasha's Sweets and decreased his anticipated annual income from \$28,000 to \$7,500 resulting from his new part-time employment at Viking Bakery; an interim reexamination was processed effective 7/1/2023. After the 7/1/2023 interim, Paul worked briefly at two different jobs, but he says he is no longer working and is not planning to work.

#### 5/1/2023 Annual Reexamination

Wages: \$28,000

The EIV report pulled on 1/15/2024

Wages Total: \$18,271

Quarter 3 of 2023: \$2,500 (Viking Bakery)

Quarter 3 of 2023: \$796 (Sweet Tooth Candy Bar)

Quarter 2 of 2023: \$1,300 (Sasha's Sweets)

Quarter 2 of 2023: \$584 (Larry's Concessions)

Quarter 2 of 2023: \$2,401 (Viking Bakery)

Quarter 1 of 2023: \$6,500 (Sasha's Sweets)

Quarter 4 of 2022: \$600 (Sasha's Sweets)

SS/SSI: No history of benefits

Income Reported on Reexamination Application

Wages: \$0 (permanent change; no longer receiving)

Social Security: \$14,400 (\$1,200 monthly)

Paul certified on the PHA's annual reexamination paperwork that he does not agree with the annual wages of \$18,271 reported in EIV and it is not reflective of his current anticipated annual income. He reported he is currently unemployed, and provided a copy of an award letter from the Social Security Administration to document that he will begin receiving a monthly disability benefit of \$1,200 effective 3/1/2024.

Calculating Wages and SS Benefit

Step 1: Determine prior annual income taking into consideration the 8/1/2023 interim reexamination (i.e., EIV wages reflected Q4 2022 through Q3 2023: \$18,271)

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there was a 7/1/2023 interim that reduced wages to \$7,500.

Step 3: Obtain documentation to verify current income and confirm Paul is no longer employed at Viking Bakery or The Sweet Tooth Candy Bar (the employers reported in the most recent quarter of EIV). This step is necessary, because Paul did not agree with the EIV income report or income reported on the last interim reexamination. Paul reported that he is no longer working at all.

Process the annual reexamination effective 5/1/2024 using annual SS income of \$14,400 and \$0 wages.

Summary of Annual Income (as reported on the HUD-50058)

Paul (Head of Household): \$14,400 (SS)

Hewson Family Total Annual Income: \$14,400



### Example 3: Calculating Annual Income at Annual Reexamination

Staff are processing the 11/1/2024 annual reexamination for Samantha and Fergus Pool, head of household and spouse. On 2/14/2024 Samantha reported her monthly child support payment was reduced from \$200 to \$100 per month, but an interim reexamination was not processed because the reduction in child support income for Samantha's daughter, Hailey, did not result in a decrease of 10 percent or more in annual adjusted income, and the PHA did not establish a lower threshold. Samantha did not report any additional changes to the PHA.

#### Last reexamination – 11/1/2023 Annual Reexamination

Samantha:

Business income: \$28,000

VA disability pension: \$12,000

Child support: \$2,400

Fergus:

Wages: \$8,250

Other non-wage income: \$3,000

(Go Fund Me online fundraiser)

#### The EIV report pulled on 9/16/2024

Samantha:

Wages Total: \$0 (no wage data reported since Q1 2023)

Fergus:

Wages Total: \$8,600

Quarter 1 of 2024: \$2,100 (Ian's Fish 'n' Chips)

Quarter 1 of 2024: \$500 (Claire's Healthcare Supplies)

Quarter 4 of 2023: \$1,000 (Claire's Healthcare Supplies)

Quarter 3 of 2023: \$1,800 (The Onion Garden Shop)

Quarter 2 of 2023: \$3,200 (Ivar's Fish Haus)

#### Current Family Circumstances: Income Reported on Reexamination Application

Samantha and Fergus reported how much income was earned/received in the previous 12-month period and noted permanent changes, where applicable, for each source of their income on PHA's annual reexamination form. However, no information was reported by the family concerning other non-wage income. Fergus reported only wages and his current employment at Ian's Fish 'n' Chips for the annual reexamination. The family supplied the supporting documentation noted below to the PHA for the 11/1/2024 annual reexamination.

Samantha:

Business income: \$28,750 (last year); has decreased to \$18,000 (permanent change)

VA disability benefit: \$12,000 (last year); has increased to \$12,300 (permanent change)

Child support: \$2,400 (last year); has decreased to \$1,200 (permanent change)

Fergus:

Wages: \$6,000

### Calculating Samantha's Net Business Income

Step 1: Determine prior annual net business income (i.e., \$28,000 on last HUD-50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: Adjust to reflect current net business income. Samantha reported on the annual reexamination application that business income permanently decreased to \$18,000. The PHA must obtain supporting documentation from Samantha that demonstrates current net business income. Samantha provided documentation that supported the current annual net business income is \$18,000. Process the annual reexamination effective 11/1/2024 using annual net business income determined in Step 3.

### Calculating Samantha's VA Pension Income

Step 1: Determine prior annual VA pension income (i.e., \$12,000 supported by a VA award letter Samantha supplied that documents the prior year monthly VA pension was \$1,000).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The PHA needs to adjust to reflect current VA pension income. Samantha supplies a VA award letter showing a monthly pension of \$1,025, or \$12,300 annually. Process the annual reexamination effective 11/1/2024 using annual VA pension income determined in Step 3 (\$12,300 in this example).

### Calculating Samantha's Child Support Income

Step 1: Determine prior annual child support income (i.e., \$2,400 on the last HUD-50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination. The family reported a decrease from \$200 to \$100 monthly, but the change was not processed because it did not meet the threshold.

Step 3: The family reported changes, so the PHA must adjust to reflect current child support income. In this example, the family submitted a child support history report from the local child support office that documents regular \$100 monthly child supports payments beginning 3/1/2024 through the current month. Process the annual reexamination effective 11/1/2024 using current annual child support income determined in Step 3 (\$1,200 in this example).

### Calculating Fergus' Wages

Step 1: Determine prior annual income from wages in EIV (i.e., Q2 2023 through Q1 of 2024: \$8,600).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: There is a discrepancy between what the family reported and EIV, so the PHA must verify and adjust to reflect current annual income from wages. Fergus reported \$6,000 in annual income from wages on the annual reexamination from a single employer, Ian’s Fish ‘n’ Chips. The PHA projected annual income of \$7,800 based on the two paystubs for this employer, and EIV shows \$8,600 earned in the most recent four quarters in EIV. To complete Step 3, the PHA must do the following:

Resolve the discrepancy between EIV wages, the \$6,000 annual income Fergus reported, and the \$7,800 projected based on the paystubs he provided, and

Verify he is no longer employed at Claire’s Healthcare Supplies in accordance with HUD’s verification hierarchy and local policies.

The PHA determined that Fergus reported his net vs. gross annual income from wages, which he corrected on the annual reexamination form to reflect his current gross annual income of \$9,000. The PHA verified Fergus was no longer employed at Claire’s Healthcare Supplies and obtained two additional paystubs. Based on four current and consecutive paystubs, Fergus is now projected to earn \$9,360 annually. Process the annual reexamination effective 11/1/2024 using income from wages determined in Step 3 (\$9,360 in this example).

#### Calculating Fergus’ Other Non-Wage Income

Step 1: Determine prior annual income from other non-wage income (i.e., \$3,000 on the last HUD– 50058).

Step 2: Take into consideration any interim reexamination of family income completed since the last annual reexamination. In this case, there have been no interim reexaminations processed since the last annual reexamination.

Step 3: The family did not report any non-wage income on the annual reexamination form, but it was included on the last HUD–50058. The PHA must verify and adjust to reflect current non-wage income. The PHA must verify no income was received through a “Go Fund Me” online fundraiser so that it may be excluded. Fergus provided a self-certification that he hasn’t solicited funds online and doesn’t plan to in the following year; he also provided records from the account that documented no fundraising activity in the prior 12-month period. Process the annual reexamination effective 11/1/2024 using annual non-wage income of \$0 determined in Step 3.

#### Summary of Annual Income (as reported on the HUD-50058)

Samantha (Head of Household):

Own business: \$18,000

Pension: \$12,300

Child support: \$1,200

Fergus (Co-head):

Wages: \$9,360

Poole Family Total Annual Income: \$40,860

## CHAPTER 12: TERMINATION OF ASSISTANCE AND TENANCY

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### INTRODUCTION

HUD regulations specify mandatory and optional grounds for which a PHA can terminate a family's assistance. They also specify the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter describes the policies that govern mandatory and optional terminations of assistance, and termination of tenancy by the owner. It is presented in three (3) parts:

Part I: Grounds for Termination of Assistance. This part describes the various circumstances under which assistance under the program can be terminated by the family or by the PHA.

Part II: Approach to Termination of Assistance. This part describes the policies and the process that the PHA will use in evaluating decisions on whether to terminate assistance due to actions or inactions of the family where termination is an option. It specifies the alternatives that the PHA may consider in lieu of termination, the criteria the PHA will use when deciding what action to take and the steps the PHA must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part 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 PHA 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 PHA 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 PHA.

#### 12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of the housing assistance payment decreases. If the amount of assistance provided by the PHA is reduced to zero (0), the family's assistance terminates automatically one hundred eighty (180) days after the last HAP payment.

#### HACP Policy

If a participating family receiving zero (0) assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the HACP of the change and request an interim reexamination before the expiration of the one hundred-eighty (180) day period. Once the one hundred-eighty (180) day period expires and the tenant is still at zero (0) assistance with or without any reported changes in circumstances, the HACP will terminate assistance on the last day of the month following the 180<sup>th</sup> day.

## 12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the PHA terminate housing assistance payments on behalf of the family at any time.

### HACP 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, HACP will follow the notice requirements in Section 12-II.F.

## 12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the PHA to terminate assistance in the following circumstances:

### **Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]**

The PHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. As discussed further in section 12-II.E, incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking, or human trafficking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such incident violence or stalking.

### HACP 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. In such cases, the HACP 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. In making its decision, the HACP will consider the factors described in sections 12-II.D and 12-II.E. Upon consideration of such factors, HACP may, on a case-by-case basis, choose not to terminate assistance.

*Serious and repeated lease violations* will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used will be whether the reason for the eviction was the fault of the tenant or guests.

### **Failure to Provide Consent [24 CFR 982.552(b)(3)]**

The PHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim reexamination. See Chapter 7 for a complete discussion of consent requirements.

### **Failure to Document Citizenship [24 CFR 982.552(b)(4) and 24 CFR 5.514(c)]**

The PHA must terminate assistance if

- (1) A family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;

(2) A family submits evidence of citizenship and eligible immigration status in a timely manner, but INS United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; and

~~(A) The family does not pursue INS appeal or informal hearing rights as provided in this section; or~~

~~(B) INS appeal and informal hearing rights are pursued, but the final appeal or hearing decisions are decided against the family member; or~~

(3) A family member, as determined by the PHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the assisted unit of a family member.

For (3) above, such termination must be for a period of at least twenty-four (24) months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

### **Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2018-24]**

The PHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the PHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, and there is a reasonable likelihood that the participant will be able to disclose a SSN by the deadline, the PHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed ninety (90) calendar days from the date the PHA determined the family to be noncompliant.

### **HACP Policy**

The HACP will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of sixty (60) 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 a SSN by the deadline.

~~For children under the age of six who do not have an SSA assigned SSN, the documentation must be provided within ninety (90) calendar days of the child being added to the household. If the family is unable to disclose and provide evidence of the SSN within ninety (90) calendar days, the HACP is required to grant the family an additional ninety (90) day period to comply with the SSN disclosure and documentation requirement, only if the HACP determines the family was unable to comply with the requirements due to circumstances that could not have reasonably been foreseen and were outside of the control of the family.~~

### **Methamphetamine Manufacturing or Production [24 CFR 982.553(b)(1)(ii)]**

The PHA must immediately terminate assistance ~~for a family under the program if the PHA determines that if~~ any household member ~~of the household~~ has ever been convicted of the drug-related criminal activity ~~for~~ manufacture or production of methamphetamine on the premises of federally assisted housing.



### **Lifetime Registered Sex Offenders [Notice PIH 2012-28]**

Should a PHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the PHA must immediately terminate assistance for the household member.

In this situation, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must terminate assistance for the household.

### **Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]**

If a student enrolled at an institution of higher education is under the age of twenty-four (24), is not a veteran, is not married, does not have dependent children, is not residing with ~~their~~<sup>his/her</sup> parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the PHA must terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and PHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

### **Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]**

The PHA must immediately terminate program assistance for deceased single-member households. ~~Housing assistance payments terminate if (1) the lease terminates; (2) the HAP contract terminates; or (3) The PHA terminates assistance for the family.~~

## **12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS**

### **Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]**

HUD requires the PHA to establish policies that permit the PHA to terminate assistance if the PHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- ~~Any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.~~
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity.
- Any household member has violated the family's obligation not to engage in violent criminal activity.

## *Use of Illegal Drugs and Alcohol Abuse*

### HACP Policy

The HACP will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The HACP will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

*Currently engaged in* is defined as any use of illegal drugs during the previous six (6) months.

The HACP will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the HACP 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 HACP may, on a case-by-case basis, choose not to terminate assistance.

### ***Drug-Related and Violent Criminal Activity [24 CFR 5.100]***

*Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

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

*Violent criminal activity* means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

### HACP Policy

The HACP 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 HACP will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

A record or records of arrest will not be used as the sole basis for termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the HACP 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, HACP may, on a case-by-case basis, choose not to terminate assistance.

## **Other Authorized Reasons for Termination of Assistance [24 CFR 982.552(c), 24 CFR 5.2005(c), 24 CFR 984.101(d)]**

HUD permits the PHA to terminate assistance under a number of other circumstances. It is left to the discretion of the PHA whether such circumstances in general warrant consideration for the termination of assistance. As discussed further in section 12-II.E, the Violence Against Women Act explicitly prohibits PHAs from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, sexual assault, ~~or stalking~~, or human trafficking as reasons for terminating the assistance of a victim of such ~~incidents~~abuse or stalking.

Additionally, per 24 CFR 984.101(d), PHAs are no longer permitted to terminate assistance to a family due to the family's failure to meet its obligations under the Family Self-Sufficiency (FSS) contract of participation.

### **HACP Policy**

~~The HACP will not terminate a family's assistance because of the family's failure to meet its obligations under the Family Self-Sufficiency program, except in the case where the family has been required to participate in the FFS FSS program under the guidelines of a hardship.~~

The HACP **will** terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related HACP policies.
- Any family member has been evicted from federally-assisted housing in the last five (5) years.
- ~~• Any PHA has ever terminated assistance under the program for any member of the family.~~
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to any PHA in connection with the HCV or public housing assistance under the 1937 Act. ~~Certificate, Moderate Rehabilitation or public housing programs.~~
- The family has not reimbursed any PHA for amounts the PHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family has breached the terms of a repayment agreement entered into with the HACP.
- ~~• Any household member has engaged in 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.~~
  - ~~— Vicinity of the premises means criminal activity engaged in within the County of Allegheny.~~
- A family member has engaged in or threatened violent or abusive behavior toward HACP personnel.
  - *Abusive or violent behavior towards HACP personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.
  - *Threatening* refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the HACP will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the PHA may, on a case-by-case basis, choose not to terminate assistance.

## Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. The PHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than one hundred-eighty (180) consecutive calendar days in any circumstance for any reason. **Absence in this context means that no member of the family is residing in the unit.**

### HACP Policy

If the family is absent from the unit for more than ~~ninety-one hundred eighty (90180)~~ consecutive calendar days, the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.F.

## Insufficient Funding [24 CFR 982.454]

The PHA may terminate HAP contracts if the PHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

### HACP Policy

The HACP 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 HACP determines there is a shortage of funding, prior to terminating any HAP contracts, the HACP will determine if any other actions can be taken to reduce program costs. ~~If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the HACP will terminate HAP contracts as a last resort.~~

~~Prior to terminating any HAP contracts, the HACP will inform the local HUD field office.~~

~~The HACP will terminate the minimum number needed in order to reduce HAP costs to a level within the HACP's annual budget authority.~~

~~In the event that the HACP decides to stop issuing vouchers as a result of a funding shortfall, and the HACP 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 HACP resumes issuing vouchers, the HACP will issue vouchers first to the special purpose voucher families on its waiting list until it has reached the required number of special purpose vouchers, when applicable.~~

~~If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the HACP will terminate HAP contracts as a last resort.~~

~~Prior to terminating any HAP contracts, the HACP will inform the local HUD field office. The HACP will terminate the minimum number needed in order to reduce HAP costs to a level within the HACP's annual budget authority.~~

If the HACP must terminate HAP contracts due to insufficient funding, the HACP will do so in accordance with the following criteria and instructions:

- ~~Families who have been assisted in the HCV program the longest will be the first to be terminated, excluding families that include elderly or disabled family members.~~
- ~~Families comprising the required number of special purpose vouchers, include nonelderly disabled (NED), HUD-Veteran's Affairs Supporting Housing (HUD-VASH), and Family Unification Program (FUP) will be the last to be terminated.~~

- ~~• The HACP will first terminate assistance to families that have been on the Housing Choice Voucher program the longest, with the exception that contracts for elderly and disabled families will not be cancelled unless there are no non-elderly disabled families on the HACP's HCV program.~~

## **PART II: APPROACH TO TERMINATION OF ASSISTANCE**

### **12-II.A. OVERVIEW**

The PHA 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 PHA the authority to either terminate the family's assistance or to take another action. This part discusses the various actions the PHA may choose to take when it has discretion, and outlines the criteria the PHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notification to the family of the PHA's intent to terminate service.

### **12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]**

Termination of assistance for a participant may include any or all of the following:

- Terminating housing assistance payments under a current HAP contract,
- Refusing 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 PHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

#### **HACP 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 HACP request.

#### **Repayment of Family Debts**

#### **HACP Policy**

If a family owes amounts to the HACP, as a condition of continued assistance, the HACP will require the family to repay the full amount or to enter into a repayment agreement, within thirty (30) days of receiving notice from the HACP 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 PHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

### HACP Policy

The HACP will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

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

### Use of Criminal Conviction Records after Admission [24 CFR 5.903]

The regulation at 24 CFR 5.903 governs a PHA's access to and use of criminal conviction records obtained from a "law enforcement agency" such as the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records. While the regulatory listing of permitted uses for these records includes PHA screening of applicants for admission to the HCV program, it specifically excludes the use of records for lease enforcement and eviction of HCV participants and excludes by omission a PHA's use of records to terminate assistance for participants. While a PHA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, PHAs may not use records for this purpose. The limitations, however, do not apply to criminal conviction information searches from non-federal sources (i.e., sources other than the "law enforcement agencies" defined in 24 CFR 5.902(b)). There is no prohibition that bars a PHA from using non-federal sources to conduct criminal background checks of program participants.

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

The PHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

### HACP Policy

The HACP 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' safety or property
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or (as discussed further in section 12-II.E) a victim of domestic violence, dating violence, sexual assault, or human trafficking, ~~or~~ stalking
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future



- While a record or records of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the HACP may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The HACP may also consider:
  - Any statements made by witnesses or the participant not included in the police report
  - Whether criminal charges were filed
  - Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
  - Any other evidence relevant to determining whether the participant engaged in disqualifying activity
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully, the HACP 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
- The HACP will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.
- In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family

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

If the family includes a person with disabilities, the PHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

#### **HACP 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 HACP will determine whether the behavior is related to the disability. If so, upon the family's request, the HACP will determine whether alternative measures are appropriate as a reasonable accommodation. The HACP will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

#### **12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, ~~OR~~ SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING**

This section describes the protections against termination of assistance that the Violence Against Women ~~Reauthorization~~ Act of 2005-2022 (VAWA) provides for victims of domestic violence, dating violence, ~~sexual assault, and~~ sexual assault, and ~~stalking, and~~ stalking, and ~~human trafficking~~ human trafficking. For general VAWA requirements, key VAWA definitions, and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan.

## VAWA Protections against Termination

VAWA provides four (4) specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault, or stalking. (Note: The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program, as do the limitations discussed under the next heading.)

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

First, VAWA provides that a PHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the PHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, and who reasonably believed ~~he or she~~ they was imminently threatened by harm from further violence if ~~he or she~~ they remained in the unit [24 CFR 982.314(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or an immediate family member of the tenant is the actual or threatened victim of the domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking [24 CFR 5.2005(c)(2)].

Fourth, it gives PHAs the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

PHAs and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].

### Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of a PHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking so long as the PHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a PHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

~~Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].~~

In order to demonstrate an actual and imminent threat, the PHA must have objective evidence of words, gestures, actions, or other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

### HACP Policy

In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault, or stalking, or human trafficking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the HACP will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, or stalking, or human trafficking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within an short period of time time frame
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the participant wishes to contest HACP's determination that ~~he or she~~they is are an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

### **Documentation of Abuse [24 CFR 5.2007]**

### HACP Policy

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault, or stalking, or human trafficking claims protection under VAWA, the HACP will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX.D of this plan.

The HACP reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases, the HACP will document the waiver in the individual's file.

## Terminating the Assistance of a Domestic Violence Perpetrator

Although VAWA provides protection against termination of assistance for victims of domestic violence, it does not provide such protection for perpetrators. VAWA gives the PHA the explicit authority to “terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others” without terminating assistance to “or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant” [24 CFR 5.2009(a)]. This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the PHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the PHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [~~FR Notice 3/16/07 Federal Register notice on the applicability of VAWA to HUD programs~~].

If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the program. The PHA must not stop paying HAP until thirty (30) days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month [Notice PIH 2017-08].

If the perpetrator is the only participant eligible to receive assistance, the PHA will provide any remaining participant a chance to establish eligibility for the program. If the remaining participant cannot do so, the PHA will provide them with thirty (30) days to establish eligibility for another housing program prior to termination of the HAP contract.

### HACP Policy

The HACP will terminate assistance to a family member if the HACP 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 HACP will consider all credible evidence, including, but not limited to, a signed certification (form HUD-~~50066~~5382) or other documentation of abuse submitted to the HACP by the victim in accordance with this section and section 16-IX.D. The HACP will also consider the factors in section 12-II.D. Upon such consideration, the HACP may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the HACP does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

## 12-II.F. TERMINATION NOTICE

HUD regulations require PHAs to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family’s HAP contract and lease will also terminate when the family’s assistance terminates [form HUD- 52641], it is a good business practice to provide written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

## HACP Policy

Whenever a family's assistance will be terminated, the HACP will send a written notice of termination to the family and to the owner. The HACP will also send a form HUD-5382 and form HUD-5380 to the family with the termination notice. The notice will state the date on which the termination will become effective. This date generally will be at least thirty (30) calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other HACP policies, or the circumstances surrounding the termination require.

When the HACP notifies an owner that a family's assistance will be terminated, the HACP will, if appropriate, advise the owner of his/her/their right to offer the family a separate, unassisted lease.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the PHA sends to the family must meet the additional HUD and the PHA notice requirements discussed in section 16-III.C of this plan. ~~Although HUD does not require PHAs to include information about the protections against termination of assistance provided by the Violence against Women Act of 2005 (VAWA) to victims of domestic violence, dating violence, or stalking, PHAs have the discretion to include such information. VAWA requires PHAs to provide notice of VAWA rights and Form HUD-5382 when a PHA terminates a household's housing benefits.~~

## HACP Policy

Whenever the HACP decides to terminate a family's assistance because of the family's action or failure to act, the HACP will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD-5382 and form HUD-5380. The HACP will request in writing that a family member wishing to claim protection under VAWA notify the HACP within ten (10) business days.

Still other notice requirements apply in two (2) 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 CFR 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.

## **PART III: TERMINATION OF TENANCY BY THE OWNER**

### **12-III.A. OVERVIEW**

Termination of an assisted tenancy is a matter between the owner and the family; the PHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

## 12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

### Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking, or human trafficking and the victim is protected from eviction by the Violence Against Women Act ~~of 2005~~ 2013 (see section 12-II.E). A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the PHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

### Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

### Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*— meaning any member of the household, a guest, or another person under the tenant's control—commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises)
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises
- Any violent criminal activity on or near the premises
- Any drug-related criminal activity on or near the premises

However, in the case of criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking, or human trafficking if the tenant or an immediate member of the tenant's family is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy (see section 12-II.E).

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

~~The owner may terminate tenancy 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 ~~is: has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.~~

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under 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.

### ***Evidence of Criminal Activity***

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, stalking, or human trafficking and the tenant or an affiliated individual is the victim or threatened victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

### **Other Good Cause**

During the initial lease term, the owner may not terminate the tenancy for “other good cause” unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good causes include 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
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent)

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

If a property is subject to foreclosure, during the term of the lease, the new owner of the property does not have good cause to terminate the tenant’s lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a ninety (90) day notice to vacate. See Section 13-II.G for a discussion of PHA policies relating to units in foreclosure.

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

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the PHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the PHA a copy of any eviction notice (see Chapter 5).

### HACP Policy

If the eviction action is finalized in court, the owner must provide the HACP with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than ten (10) business days following the court-ordered eviction.

## **12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]**

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault, or stalking, or human trafficking is limited by the Violence Against Women Act ~~of 2005~~ (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See section 12- II.E.)

### **12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE**

If a termination is not due to a serious or repeated violation of the lease, and if the PHA has no other grounds for termination of assistance, the PHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

## EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS [24 CFR 982.551]

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

- The family must supply any information that the PHA or HUD determines to be necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status. ~~“Information” includes any requested certification, release or other documentation.~~
- 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 ~~in accordance with HUD requirements.~~

### HACP Policy

The family must report in writing all increases in household income within thirty (30) calendar days of the date that the change occurred.

The HACP must receive all requested documentation by the deadline indicated on correspondence sent to the family requesting information for regularly scheduled and interim reexaminations.

- The family must disclose and verify social security numbers and must sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- ~~HQS breach caused by family.~~ The family is responsible for a Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.
  - ~~—The family fails to pay for any utilities that the owner is not required to pay for, but which are to be paid by the tenant;~~
  - ~~—The family fails to provide and maintain any appliances that the owner is not required to provide, but which are to be provided by the tenant; or~~
  - ~~—Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear).~~

### HACP Policy

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

- ~~Allowing PHA inspection.~~ 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.
- ~~Violation of lease.~~ The family must not commit any serious or repeated violation of the lease. Under 24 CFR 5.2005(c), an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as a serious or repeated lease violation by the victim, or threatened victim, of the domestic violence, dating violence, sexual assault, or stalking, or as good cause to terminate the tenancy, occupancy rights, or assistance of the victim.

### HACP Policy

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

- ~~Family notice of move or lease termination.~~ The family must notify the PHA and the owner before moving out of the unit, or terminating the lease ~~on notice to the owner.~~

### HACP Policy

The family must comply with lease requirements regarding written notice to the owner.

The family must provide written notice to HACP at the same time the owner is notified.

- ~~Owner eviction notice.~~ 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. ~~No other person [i.e., nobody but members of the assisted family] may reside in the unit (except for a PHA-approved foster child or live-in aide).~~

### HACP Policy

The family must notify the HACP if it intends to add anyone additional to the household regardless of familial status. The request to add an individual to the household must be submitted in writing and approved prior to the person moving into the unit. The HACP will determine eligibility of the new member in accordance with the policies in Chapter 3.

- The family must promptly notify the PHA in writing if any family member no longer lives in the unit.
- If 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 defining 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).
- ~~Members of the household may engage in legal profitmaking activities in the unit, but only if such activities are incidental to primary use of the unit for residence by members of the family.~~
- The family must not sublease the unit, assign the lease, or transfer the unit.

## HACP 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 not assign the lease or transfer the unit.~~

- ~~• **Absence from the unit.** The family must supply any information requested by the PHA to verify that the family is living in the unit, or information relating related to family absence from the unit, including any PHA requested information or certification on the purpose of family absences. The family must cooperate with the PHA for this purpose.~~
- The family must promptly notify the PHA of absence from the unit.

## HACP 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 thirty (30) calendar days. Written notice must be provided to the HACP 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].**~~
- ~~**Interest in unit.** 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 space).~~

## HACP Policy

~~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 HACP 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].~~

- ~~• **Fraud and other program violation.** Family members The members of the family must not commit fraud, bribery or any other corrupt or criminal activity in connection with the programs. (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 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 drug-related and violent criminal activity.~~
- ~~• **Crime by household members.** The members of the household may 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 § 982.553). Under 24 CFR 5.2005(b)(2), criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a tenant's household, or any guest or other person under the tenant's control, shall not be cause for termination of tenancy, occupancy rights, or assistance of the victim, if the tenant or an affiliated individual of the tenant, as defined in 24 CFR 5.2003, is the victim.~~
- ~~**Alcohol abuse by household members.**~~ 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 the PHA policies related to alcohol abuse.



- ~~Other housing assistance.~~ 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 duplicative (as determined by HUD or in accordance with HUD requirements)~~ federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owed by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the PHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities [Form HUD-52646, Voucher].

## CHAPTER 13: OWNERS

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### INTRODUCTION

Owners play a major role in the HCV program by supplying decent, safe, and sanitary housing for participating families.

The term “owner” refers to any person or entity with the legal right to lease or sublease a unit to a participant in the HCV program [24 CFR 982.4(b)]. The term “owner” includes a principal or other interested party [24 CFR 982.453; 24 CFR 982.306(f)], such as a designated agent of the owner.

Owners have numerous responsibilities under the program, including screening and leasing to families, maintaining the dwelling unit, enforcing the lease, and complying with various contractual obligations.

The chapter is organized in two parts:

Part I: Owners in the HCV Program. This part discusses the role of an owner in the PHA’s HCV program and highlights key owner rights and responsibilities.

Part II: HAP Contracts. This part explains provisions of the HAP contract and the relationship between the PHA and the owner as expressed in the HAP contract.

For detailed information about HCV program responsibilities and processes, including PHA policies in key areas, owners will need to refer to several other chapters in this plan. Where appropriate, Chapter 13 will reference the other chapters.

### PART I. OWNERS IN THE HCV PROGRAM

#### **13-I.A. OWNER RECRUITMENT AND RETENTION [HCV GB, pp. 2-4 to 2-6; [HCV Landlord Strategy Guidebook for PHAs](#)]**

##### **Recruitment**

PHAs are responsible for ensuring that very low-income families have access to all types and ranges of affordable housing in the PHA’s jurisdiction, particularly housing outside areas of poverty or minority concentration. A critical element in fulfilling this responsibility is for the PHA to ensure that a sufficient number of owners, representing all types and ranges of affordable housing in the PHA’s jurisdiction, are willing to participate in the HCV program.

To accomplish this objective, PHAs must identify and recruit new owners to participate in the program.

##### **HACP Policy**

The HACP will conduct owner outreach to ensure that owners are familiar with the program and its advantages. The HACP will actively recruit property owners with property located outside areas of poverty and minority concentration. These outreach strategies will include:

- Distributing printed material about the program to property owners and managers
- Contacting property owners and managers by phone or in-person

- Holding owner recruitment/information meetings at least once a year
- Participating in community based organizations comprised of private property and apartment owners and managers
- Developing working relationships with owners, apartment associations, industry investor groups, and real estate brokers associations
- To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program

Outreach strategies will be monitored for effectiveness and adapted accordingly.

## **Retention**

In addition to recruiting owners to participate in the HCV program, the PHA must also provide the kind of customer service that will encourage participating owners to remain active in the program.

## **HACP Policy**

All HACP 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 HACP will provide owners with a handbook that explains the program, including HUD and HACP policies and procedures, in easy-to-understand language.

The HACP will give special attention to helping new owners succeed through activities such as:

- Providing the owner with a designated HACP contact person.
- Coordinating inspection and leasing activities between the HACP, 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.
- Contacting owners via emails or texts to disseminate information.

Additional services may be undertaken on an as-needed basis, and as resources permit.

## **13-I.B. BASIC HCV PROGRAM REQUIREMENTS**

HUD requires the PHA to assist families in their housing search by providing the family with a list of landlords or other parties known to the PHA who may be willing to lease a unit to the family, or to help the family find a unit. Although the PHA cannot maintain a list of owners that are pre-qualified to participate in the program, owners may indicate to the PHA their willingness to lease a unit to an eligible HCV family, or to help the HCV family find a unit [24 CFR 982.301(b)(11)].

## **HACP Policy**

Owners that wish to indicate their willingness to lease a unit to an eligible HCV family or to help the HCV family find a unit must notify the HACP. The HACP will maintain a listing of such owners and provide this listing website link(s) to the HCV family as part of the informational briefing packet. HACP will also make this listing available in the lobbies of its buildings that house HCV staff as well as providing the listing on its website.

~~Landlord orientations will be required of all program landlords and potential landlords and will cover program rules and regulations, and the respective responsibilities of the landlords, housing authority, and tenants.~~

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 PHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy. See chapters 3 and 9 for more detail on tenant family screening policies and process.

If the owner is willing, the family and the owner must jointly complete a Request for Tenancy Approval (RFTA, Form HUD-52517), which constitutes the family's request for assistance in the specified unit, and which documents the owner's willingness to lease to the family and to follow the program's requirements. When submitted to the PHA, this document is the first step in the process of obtaining approval for the family to receive the financial assistance it will need in order to occupy the unit. Also submitted with the RFTA is a copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A). See Chapter 9 for more detail on request for tenancy approval policies and process.

HUD regulations stipulate requirements for the approval of an assisted tenancy.

The owner must be qualified to participate in the program [24 CFR 982.306]. Some owners are precluded from participating in the program, or from renting to a particular family, either because of their history with this or another federal housing program, or because of certain conflicts of interest. Owner qualifications are discussed later in this chapter.

The selected unit must be of a type that is eligible for the program [24 CFR 982.305(a)]. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions. See chapter 9 for more detail on unit eligibility policies and process.

The selected unit must meet HUD's Housing Quality Standards (HQS) and/or equivalent state or local standards approved by HUD [24 CFR 982.305(a)]. The PHA will inspect the owner's dwelling unit at least annually, to ensure that the unit continues to meet HQS requirements. See Chapter 8 for a discussion of the HQS standards and policies for HQS inspections at initial lease-up and throughout the family's tenancy.

The PHA must determine that the proposed rent for the unit is reasonable [24 CFR 982.305(a)]. The rent must be reasonable in relation to comparable unassisted units in the area and must not be in excess of 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 PHA ~~must~~ may ~~allow ensure that~~ the family share ~~does not to~~ exceed 40 percent of the family's monthly adjusted income [24 CFR 982.305(a)] if their income is greater than zero (0), per the HACP's Moving to Work Authority. See ~~chapter~~ Chapter 6 for a discussion of the calculation of family income, family share of rent and HAP.

The dwelling lease must comply with all program requirements [24 CFR 982.308]. Owners are encouraged to use their standard leases when renting to an assisted family. The HUD Tenancy Addendum includes the HUD requirements governing the tenancy and must be added word-for-word to the owner's lease. See Chapter 9 for a discussion of the dwelling lease and tenancy addendum, including lease terms and provisions.

The PHA and the owner must execute a Housing Assistance Payment (HAP) Contract (Form HUD-52641). HUD prescribes the HAP contract format. See Chapter 9 for a discussion of the HUD requirements for execution of the HAP contract.

### 13-I.C. OWNER RESPONSIBILITIES [24 CFR 982.452]

The basic owner responsibilities in the HCV program are outlined in the regulations as follows:

- Compliance with all of the owner's obligations under the housing assistance payments(HAP) contract and the lease
- Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), including performance of ordinary and extraordinary maintenance
- Complying with equal opportunity requirements
- Preparing and furnishing to the PHA 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 CFR 100.203]
- Complying with the Violence against Women Reauthorization Act of 2013~~05~~ (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family (see 24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); and 24 CFR 982.452(b)(1))

### 13-I.D. OWNER QUALIFICATIONS ~~[24 CFR 982.306]~~

The PHA does not formally approve an owner to participate in the HCV program. However, there are a number of criteria where the PHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

#### Owner Barred from Participation [24 CFR 982.306(a) and (b)]

The PHA must not approve the assisted tenancy if the PHA has been informed that the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR Part 24. HUD may direct the PHA not to approve a tenancy request

~~The PHA must not approve the assisted tenancy request~~ if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

#### Leasing to Relatives [24 CFR 982.306(d), HCV GB p. 11-2]

The PHA must not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The PHA may make an exception as a reasonable accommodation for a family member with a disability. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

**Conflict of Interest [24 CFR 982.161; HCV GB P. 8-19; Form HUD-52641, Section 13] (See Appendix for Additional Information)**

The PHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one (1) year thereafter:

- Any present or former member or officer of the PHA (except a participant commissioner)
- Any employee of the PHA, or any contractor, subcontractor or agent of the PHA, who formulates policy or who influences decisions with respect to the programs
- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs
- Any member of the Congress of the United States

Such “covered individual” may not have any direct or indirect interest in the HAP contract or in any benefits or payments under the contract (including the interest of an immediate family member of such covered individual) while such person is a covered individual or for one (1) year thereafter.

Immediate family member means the spouse, parent (including stepparent), child (including stepchild), grandparent, grandchild, sister, or brother (including a stepsister or stepbrother) of any covered individual.

HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The PHA must submit a waiver request to the appropriate HUD Field Office for determination

Any waiver request submitted by the PHA must include 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 PHA, or both parties may conduct this analysis. Where appropriate, an opinion by the state’s attorney general should be obtained;
- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of ~~his/her~~their duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the PHA or assistance under the HCV program for an eligible PHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program;
- If the case involves an investment on the part of a member, officer, or employee of the PHA, description of the nature of the investment, including disclosure/divestiture plans.

Where the PHA has requested a conflict of interest waiver, the PHA may not execute the HAP contract until HUD has made a decision on the waiver request.



## HACP Policy

The HACP will terminate a HAP contract at any time during the assisted tenancy for any of the following reasons:

- (1) The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- (2) The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- (3) The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- (4) 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;
- (5) The owner has a history or practice of renting units that fail to meet State or local housing codes including compliance with the Lead Safe Housing Rule (LSHR).

If the HACP determines that any HAP contract breaches or program noncompliance has occurred, the HACP may exercise its rights and remedies under the HAP contract. The HACP will notify the owner of its determination and provide in writing the reasons for the determination. At the HACP's sole discretion and depending on the nature of the violation, the HACP will generally require the owner to take a corrective action within thirty (30) calendar days of receiving said notice. Should the owner fail to execute the corrective action(s) within thirty (30) calendar days of receiving the notice, they will be permanently banned from participating in the HCV Program.

In considering whether to disapprove owners or terminate the HAP contract for any discretionary reason listed above, the HACP 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 HACP may, on a case-by-case basis, choose to approve an owner and/or continue the HAP contract.

### **Owner Actions That May Result in Disapproval of a Tenancy Request [24 CFR 982.306(c)]**

~~There are a number of criteria where the PHA must deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner related issues [24 CFR 982.306]. HUD regulations permit the PHA to disapprove a request for tenancy for various actions and inactions of the owner.~~

~~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.~~

If the PHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units [HCV GB p. 11-4].

~~In its administrative discretion, the PHA may deny approval of an assisted tenancy [24 CFR 982.306(c)].~~

### HACP Policy

The HACP will deny approval of an assisted tenancy or terminate a HAP contract at any time during the assisted tenancy for any of the following reasons:

- (1) The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- ~~(2)~~ The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- ~~(2)(3)~~ The owner has engaged in any drug-related criminal activity or any violent criminal activity;
- ~~(3)(4)~~ The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;
- ~~(4)(5)~~ 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;
- ~~(5)(6)~~ The owner has a history or practice of renting units that fail to meet state or local housing codes including compliance with the Lead Safe Housing Rule (LSHR).

If the HACP determines that any HAP contract breaches or program noncompliance has occurred, the HACP may exercise its rights and remedies under the HAP contract. The HACP will notify the owner of its determination and provide in writing the reasons for the determination. At the HACP's sole discretion and depending on the nature of the violation, the HACP will generally require the owner to take a corrective action within thirty (30) calendar days of receiving said notice. Should the owner fail to execute the corrective action(s) within thirty (30) calendar days of receiving the notice, they will be permanently banned from participating in the HCV Program.

In considering whether to disapprove owners or terminate the HAP contract for any discretionary reason listed above, the HACP 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 HACP may, on a case-by-case basis, choose to approve an owner and/or continue the HAP contract.

### Legal Ownership of Unit

The following represents PHA policy on legal ownership of a dwelling unit to be assisted under the HCV program.

#### HACP Policy

The HACP 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, management agreement).

### 13-I.E. NON-DISCRIMINATION [HAP Contract – Form HUD-52641]

The owner must not discriminate against any person because of race, color, religion, sex, ~~creed~~, national ~~or ethnic~~ origin, age, familial or marital status, sexual orientation, gender identity, disability, or status as a victim of domestic violence, in connection with any actions or - responsibilities under the HCV program and the HAP contract with the PHA.

The owner must cooperate with the PHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with the PHA.

See Chapter 2 for a more thorough discussion of Fair Housing and Equal Opportunity requirements in the HCV program.

## PART II. HAP CONTRACTS

### 13-II.A. OVERVIEW

The HAP contract represents a written agreement between the PHA and the owner of the dwelling unit occupied by a HCV assisted family. The contract spells out the owner's responsibilities under the program, as well as the PHA's obligations. Under the HAP contract, the PHA agrees to make housing assistance payments to the owner on behalf of the family approved by the PHA to occupy the unit.

The HAP contract is used for all HCV tenant-based program tenancies except for assistance under the Section 8 homeownership program, and assistance to families that own a manufactured home and use their assistance to lease the space for the manufactured home. See Chapter 15 for a discussion of any special housing types included in the PHA's HCV program.

When the PHA has determined that the unit meets program requirements and the tenancy is approvable, the PHA and owner must 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

HUD requires the HAP contract format, specifically the Housing Assistance Payment (HAP) Contract, Form HUD-52641.

The HAP contract contains three (3) parts.

~~Part A of the contract includes basic contract information [HUD HCV Guidebook, HAP Contracts Chapter, 5.1]:~~

- ~~1. Full name of tenant;~~
- ~~2. Address of contract unit, including apartment number;~~
- ~~3. Names of household members;~~
- ~~4. First and last date of initial lease term;~~
- ~~5. Amount of initial monthly rent to owner;~~
- ~~6. Amount of initial housing assistance payment;~~
- ~~7. Identification of utilities to be paid for by the owner and tenant, and identification of appliances to be supplied by owner and tenant;~~
- ~~8. Signatures of the PHA representative and owner.~~

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 PHA representative and owner [HCV Guidebook, pp. 11-10 and 11-11].

In general, the HAP contract cannot be modified. However, PHAs do have the discretion to add language to Part A of the HAP contract that prohibits the owner from collecting a security deposit in excess of private market practices or in excess of amounts charged to unassisted tenants. PHA policy on the amount of security deposit an owner may collect is found in Chapter 9.

PHAs also have the discretion to add language to Part A of the HAP contract that defines when the housing assistance payment by the PHA is deemed received by the owner (e.g., upon mailing by the PHA or actual receipt by the owner).

#### HACP Policy

All owners are required to receive HAP from PHA via direct deposit unless an owner requests a paper check due to a hardship.

For owners utilizing direct deposit, the HACP can verify the day the housing assistance payment is deposited, and to which account it was deposited.

For owners still requiring paper checks as a hardship, , The-the HACP will presume that the owner will receive the housing assistance payment upon mailing unless the payment is returned to the HACP. If an owner has not received the housing assistance payment after ten (10) business days, the owner may certify this to the HACP. The HACP will then cancel the original housing assistance payment and issue a new one.

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:

Part B of HAP Contract: Contents by Section Number	
1. Purpose	2. Lease of Contract Unit
3. Maintenance, Utilizes and Other Services	4. Term of HAP Contract
5. Provision and Payment of Utilities and Appliances	6. Rent to Owner: Reasonable Rent
7. PHA Payment to Owner	8. Owner Certification
9. Prohibition of Discrimination	10. Owner's Breach of HAP Contract
11. PHA and HUD Access to Premises and Owner Records	12. Exclusion of Third Party Rights
13. Conflict of Interest	14. Assignment of the HAP Contract
15. Written Notices	16. Entire Agreement: Interpretation

Part C of the contract includes the Tenancy Addendum (Form HUD-52641-A). The addendum sets forth the tenancy requirements for the program and the composition of the household, as approved by the PHA. The tenant has the right to enforce the Tenancy Addendum against the owner. The terms of the Tenancy Addendum prevail over any other provisions of the lease.

## 13-II.C. HAP CONTRACT PAYMENTS

### General

During the term of the HAP contract, and subject to the provisions of the HAP contract, the PHA must make monthly HAP payments to the owner on behalf of the family, at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

The amount of the HAP payment is determined according to the policies described in Chapter 6, and is subject to change during the term of the HAP contract. The PHA must notify the owner and the family in writing of any changes in the HAP payment.

HAP payments can be made only during the lease term, and only while the family is residing in the unit.

The monthly HAP payment by the PHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant 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 PHA is not responsible for payment of the family share of rent.

The family's share of the rent cannot be more than the difference between the rent to owner and the HAP payment. The owner may not demand or accept any rent payment from the tenant in excess of this maximum [24 CFR 982.451(b)(4)]. The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises [24 CFR 982.510(c)]. See Chapter 9 for a discussion of separate, non-lease agreements for services, appliances and other items that are not included in the lease.

If the owner receives any excess HAP from the PHA, the excess amount must be returned immediately. If the PHA determines that the owner is not entitled to all or a portion of the HAP, the PHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract. See Chapter 16 for additional detail on owner reimbursement of HAP overpayments.

~~All owners are required to receive HAP from PHA via direct deposit.~~

### **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-accepting** the monthly check from the PHA, the owner certifies to compliance with the terms of the HAP contract. This includes certification that the owner is maintaining the unit and premises in accordance with HQS; that the contract unit is leased to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence; the rent to owner does not exceed rents charged by the owner for comparable unassisted units on the premises; and that the owner does not receive (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

### **Late HAP Payments [24 CFR 982.451(a)(5)]**

The PHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two **(2)** calendar months of the HAP contract term, the HAP contract provides for late penalties if the PHA fails to make the HAP payment on time.

Penalties for late HAP payments can only be imposed if 1) the penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants; 2) it is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and 3) the owner charges the assisted family for late payment of the family's share of the rent.

The PHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond the PHA's control. In addition, late payment penalties are not required if the PHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract [HCV Guidebook p. 11-7].

### **Termination of HAP Payments [24 CFR 982.311(b)]**

The PHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, the PHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.



## **HACP Policy**

The owner must inform the HACP when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit.

The owner must inform the HACP when the owner has obtained a court judgment or other process allowing the owner to evict the tenant, and provide the HACP 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 HACP 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 HACP of the date when the family actually moves from the unit or the family is physically evicted from the unit.

### **13-II.D. BREACH OF HAP CONTRACT [24 CFR 982.453]**

Any of the following actions by the owner constitutes a breach of the HAP contract:

- If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS
- If the owner has violated any obligation under any other HAP contract under Section 8
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program
- For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the 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 PHA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

The PHA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment or termination of the HAP contract. The PHA may also obtain additional relief by judicial order or action.

The PHA must notify the owner of its determination and provide in writing the reasons for the determination. The notice may require the owner to take corrective action by an established deadline. The PHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

## **HACP Policy**

Before the HACP invokes a remedy against an owner, the HACP will evaluate all information and documents available to determine if the contract has been breached.

If relevant, the HACP 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 HACP will consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance and the number and seriousness of any prior HAP contract violations.

### 13-II.E. HAP CONTRACT TERM AND TERMINATIONS

The term of the HAP contract runs concurrently with the term of the dwelling lease [24 CFR 982.451(a)(2)], beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

The HAP contract and the housing assistance payments made under the HAP contract terminate if [HCV Guidebook pp.11-4 and 11-5, pg. 15-3]:

- The owner or the family terminates the lease;
- The lease expires;
- The PHA terminates the HAP contract;
- The PHA terminates assistance for the family;
- The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit.
- 180 calendar days have elapsed since the PHA made the last housing assistance payment to the owner;
- The family is absent from the unit for longer than the maximum period permitted by the PHA;
- The Annual Contributions Contract (ACC) between the PHA and HUD expires.
- The PHA elects to terminate the HAP contract.

#### HACP Policy

The HACP may elect to terminate the HAP contract in each of the following situations:

- Available program funding is not sufficient to support continued assistance for families in the program [24 CFR 982.454];
- The unit does not meet HQS size requirements due to change in family composition [24 CFR 982.403] – see Chapter 8;
- The unit does not meet HQS [24 CFR 982.404] – see Chapter 8;
- The family breaks up [HUD Form 52641] – see Chapter 3;
- The owner breaches the HAP contract [24 CFR 982.453(b)] – see Section 13-II.D.

If the PHA terminates the HAP contract, the PHA must give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments may be made under that contract [HCV Guidebook pg.15-4].

#### HACP Policy

In all cases, the HAP contract terminates at the end of the calendar month that follows the calendar month in which the HACP gives written notice to the owner. The owner is not entitled to any housing assistance payment after this period, and must return to the HACP any housing assistance payment received after this period.

If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required [HCV GB, p. 11-17].

When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy [HCV GB, p. 8-22].

### **13-II.F. CHANGE IN OWNERSHIP / ASSIGNMENT OF THE HAP CONTRACT [HUD-52641]**

The HAP contract cannot be assigned to a new owner without the prior written consent of the PHA.

An owner under a HAP contract must notify the PHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by the PHA.

Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that the PHA finds acceptable. The new owner must provide the PHA with a copy of the executed agreement.

#### **HACP Policy**

Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program according to the policies in Section 13-I.D. of this chapter.

The HACP must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date of the assignment in order to change the HAP payee under an outstanding HAP contract.

Within ten (10) business days of receiving the owner's request, the HACP will inform the current owner in writing whether the assignment may take place.

The new owner must provide a written certification to the HACP that includes:

- A copy of the escrow statement or other~~a~~ 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 HACP 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 HACP will process the leasing in accordance with the policies in Chapter 9.

## 13-II.G. FORECLOSURE [NOTICE PIH 2010-49]

### **Foreclosure**

~~In the case of any foreclosure, the immediate successor in interest in the property pursuant to the foreclosure shall 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 PHA for the occupied unit. This provision does not affect any State or local law that provides longer periods or other additional protections for tenants.~~

Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA). During the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. Further, the new owner assumes interest in the lease between the prior owner and the tenant and to the HAP contract.

Any state or local law that provides longer time periods or other additional protections for tenants also applies.

### **HACP Policy**

If a property is in foreclosure, the HACP will make all reasonable efforts to determine the status of the foreclosure and ownership of the property and will continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract.

The HACP will attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. This will include a request for owner information, including a tax identification number and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is still effective by operation of law.

The HACP will inform the tenant that they must continue to pay rent in accordance with the lease, and if the new owner refuses to accept payment or cannot be identified, the tenant should pay rent into escrow. Failure to pay rent may constitute an independent ground for eviction.

In the event that the HACP is unable to make HAP payments to the new owner due to an action or inaction by the new owner that prevents such payments (e.g., rejection of payments or failure to maintain the property according to HQS), or due to an inability to identify the new owner, the HACP will either use the funds to pay:

- The utilities that are the owner's responsibility after taking reasonable steps to notify the owner; except that if the unit has been or will be rendered uninhabitable due to termination or threat of termination of service, prior notice is not required. In the latter case, the PHA shall notify the owner within a reasonable time after making the utility payment; or
- For the family's reasonable moving costs, including security deposit costs.

The HACP will also refer the tenant, as needed, to the local legal aid office in order to ensure adequate protection of the tenant's rights and enforcement of the successor in interest's performance under the HAP contract.

See Section 12-III.B for a discussion of foreclosure as it pertains to owner termination of tenancy.

## CHAPTER 14: PROGRAM INTEGRITY

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### INTRODUCTION

The PHA is committed to ensuring that subsidy funds made available to the PHA are spent in accordance with HUD requirements.

This chapter covers HUD and PHA 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 PHA policies related to preventing, detecting, and investigating errors and program abuse.

Part II: Corrective Measures and Penalties. This part describes the corrective measures the PHA must and may take when errors or program abuses are found.

~~Part III: Conflict of Interest. This part describes the C.I policy for the PHA and affiliates.~~

### PART I: PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

#### 14-1A. 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 CFR 5.233]. PHAs are further required to:

- Provide applicants and participants with form HUD-52675, “Debts Owed to PHAs and Terminations”
- Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file

#### HACP Policy

To ensure that the HACP’s HCV program is administered effectively and according to the highest ethical and legal standards, the HACP will employ a variety of techniques to ensure that both errors and intentional program abuse are rare.

The HACP discusses program compliance and integrity issues during the voucher briefing sessions described in Chapter 5.

The HACP 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 HACP 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~~2017-4912. In addition, the HACP will require the head of each household to acknowledge receipt of the guide by signing a copy for retention in the family file.

The HACP will place a warning statement about the penalties for fraud (as described in 18 U.S.C. 1001 and 1010) on key PHA forms and form letters that request information from a family or owner.

The HACP staff will be required to review and explain the contents of all HUD- and HACP-required forms prior to requesting family member signatures.

At every regular reexamination, HACP staff will explain any changes in HUD regulations or HACP policy that affect program participants.

The HACP will require first-time owners (or their agents) to participate in a briefing session on HAP contract requirements.

The HACP will provide owners with ongoing information about the program, with an emphasis on actions and situations to avoid.

The HACP will provide each HACP 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 PHA will use a variety of activities to detect errors and program abuse.

### **Quality Control and Analysis of Data**

Under the Section 8 Management Assessment Program (SEMAP), HUD requires the PHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 16 for additional information about SEMAP requirements).

#### **HACP Policy**

As a Moving to Work Agency, the HACP is not required to utilize SEMAP. However, in addition to the SEMAP quality control requirements, the HACP will employ a variety of methods to detect errors and program abuse, including but not limited to:

- The HACP 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 HACP.
- At each reexamination, current information provided by the family will be compared to information provided at the last reexamination to identify inconsistencies and incomplete information.
- The HACP 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.



### **HACP Policy**

The HACP 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 HACP's error detection and abuse prevention efforts.

### **Individual Reporting of Possible Errors and Program Abuse**

#### **HACP Policy**

The HACP will encourage staff, program participants, and the public to report possible program abuse.

## **14-I.C. INVESTIGATING ERRORS AND PROGRAM ABUSE**

### **When the PHA Will Investigate**

#### **HACP Policy**

The HACP 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 HACP 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 HACP will investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

### **Consent to Release of Information [24 CFR 982.516]**

The PHA may investigate possible instances of error or abuse using all available PHA and public records. If necessary, the PHA will require HCV families to sign consent forms for the release of additional information.

### **Analysis and Findings**

#### **HACP Policy**

The HACP 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 HACP will determine (1) whether an error or program abuse has occurred, (2) whether any amount of money is owed to the HACP, and (3) what corrective measures or penalties will be assessed.

### **Consideration of Remedies**

All errors and instances of program abuse must be corrected prospectively. Whether the PHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

### **HACP Policy**

In the case of family-caused errors or program abuse, the HACP 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 HACP 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**

### **HACP Policy**

The HACP will inform the relevant party in writing of its findings and remedies within ten (10) business days of the conclusion of the investigation. The notice will include (1) a description of the error or program abuse, (2) the basis on which the HACP determined the error or program abuses, (3) the remedies to be employed, and (4) the family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

## **PART II: CORRECTIVE MEASURES AND PENALTIES**

### **14-II.A. SUBSIDY UNDER- OR OVERPAYMENTS**

A subsidy under- or overpayment includes (1) an incorrect housing assistance payment to the owner, (2) an incorrect family share established for the family, and (3) an incorrect utility reimbursement to a family.

### **Corrections**

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, the PHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

### **HACP Policy**

Increases in the family share will be implemented on the first of the month following a written thirty (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 HACP or the HACP is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

## **14-II.B. FAMILY-CAUSED ERRORS AND PROGRAM ABUSE**

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows the PHA to use incorrect information provided by a third party.

### **Family Reimbursement to PHA [HCV GB pp. 22-12 to 22-13]**

#### **HACP Policy**

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. The HACP 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 HACP will terminate the family's assistance in accordance with the policies in Chapter 12.

### **PHA Reimbursement to Family [HCV GB p. 22-12]**

#### **HACP Policy**

The HACP will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

#### **Prohibited Actions**

An applicant or participant in the HCV program must not knowingly:

- Make a false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.552(c) (iv)].

#### **HACP Policy**

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by HACP for rent, security deposit, and additional services
- Offering bribes or illegal gratuities to HACP Board of Commissioners, employees, contractors, or other HACP 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 HACP 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 HACP may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

## **Penalties for Program Abuse**

In the case of program abuse caused by a family the PHA may, at its discretion, impose any of the following remedies.

- The PHA may require the family to repay excess subsidy amounts paid by the PHA, as described earlier in this section.
- The PHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 12 (for participants).
- The PHA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 12 respectively.
- The PHA may refer the family for state or federal criminal prosecution as described in section 14-II.E.

## **14-II.C. OWNER-CAUSED ERROR OR PROGRAM ABUSE**

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

### **Owner Reimbursement to the PHA**

In all cases of overpayment of subsidy caused by the owner, the owner must repay to the PHA any excess subsidy received. The PHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, the PHA may allow the owner to pay in installments over a period of time [HCV GB p. 22-13].

### **HACP Policy**

In cases where the owner has received excess subsidy, the HACP will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

### **Prohibited Owner Actions**

An owner participating in the HCV program must not:

- Make any false statement to the PHA [Title 18 U.S.C. Section 1001].
- Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including:

### **HACP 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 HACP
- 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 HACP Board of Commissioners, employees, contractors, or other HACP representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the HACP
- Residing in the unit with an assisted family
- Committing sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 2.
- Retaliating against any applicant or participant reporting/alleging sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 2.

### Remedies and Penalties

When the PHA determines that the owner has committed program abuse, the PHA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16.
- Terminate the HAP contract (See Chapter 13).
- Bar the owner from future participation in any PHA programs.
- Refer the case to state or federal officials for criminal prosecution as described in section 14-II.E.

### 14-II.D. PHA-CAUSED ERRORS OR PROGRAM ABUSE

The responsibilities and expectations of PHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a PHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the PHA personnel policy.

PHA-caused incorrect subsidy determinations include (1) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses, (2) assigning the incorrect voucher size to a family, and (3) errors in calculation.

#### De Minimis Errors [24 CFR 5.609(c)(4)]

The PHA will not be considered out of compliance when making annual income determinations solely due to de minimis errors in calculating family income. A de minimis error is an error where the PHA determination of family income deviates from the correct income determination by no more than \$30 per month in monthly adjusted income (\$360 in annual adjusted income) per family.

PHAs must take corrective action to credit or repay a family if the family was overcharged rent, including when PHAs make de minimis errors in the income determination. Families will not be required to repay the PHA in instances where the PHA miscalculated income resulting in a family being undercharged for rent. PHAs state in their policies how they will repay or credit a family the amount they were overcharged as a result of the PHA's de minimis error in income determination.

### HACP Policy

The HACP will reimburse a family for any family overpayment of rent, regardless of whether the overpayment was the result of staff-caused error, staff program abuse, or a de minimis error.

### ~~Repayment to the PHA~~

~~Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by PHA staff [HCV GB. 22-12].~~

### ~~PHA Reimbursement to Family or Owner~~

~~The PHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from the PHA's administrative fee reserves [HCV GB p. 22-12].~~

## Prohibited Activities

### HACP Policy

Any of the following will be considered evidence of program abuse by the HACP 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 HACP
- Disclosing confidential or proprietary information to outside parties
- Gaining profit as a result of insider knowledge of HACP 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

### HACP Policy

When the HACP determines that program abuse by an owner, family, or HACP staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the HACP will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).



Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

#### **14-II.F. FRAUD AND PROGRAM ABUSE RECOVERIES**

The PHA may retain a portion of program fraud losses that the PHA recovers from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

The PHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits the PHA to retain the greater of:

- Fifty (50) percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- Reasonable and necessary costs that the PHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of the PHA related to the collection, these costs must be deducted from the amount retained by the PHA.

### **PART III CONFLICT OF INTEREST POLICY**

#### **14-III.A OVERVIEW**

~~Neither the PHA nor any of its contractors or subcontractors may enter into any contract or arrangement in connection with any of PHA's Housing Choice Voucher programs in which any of the following classes of persons has any interest, direct or indirect, during their tenure or for one (1) year thereafter:~~

- ~~1. Any present or former member or officer of the Authority (except a participant commissioner);~~
- ~~2. 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 (except that program participants may be hired as employees of the Authority); Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or~~
- ~~3. Any member of the Congress of the United States.~~

#### **14-III.B EMPLOYEES WHO ARE ALSO AUTHORITY CLIENTS**

~~An employee of the HACP who is a client or who is related to a client has a responsibility to avoid any conflict of interest that might lead to unequal treatment. Therefore, the following procedural standards are to be employed in all such circumstances:~~

- ~~1. No employees, or their staff if they are a Manager or Supervisor, shall handle matters related to their own cases or to the cases(s) of member(s) of their family.~~
- ~~2. Employees of the Housing Choice Voucher Department shall be responsible for reporting to the~~

~~Director of Human Resources and the Director of Housing Choice Voucher any potential or actual conflict of interest. If the employee is unsure whether or not a conflict of interest exists, the employee shall refer the matter to the Director of Human Resources and the Director of Housing Choice Voucher for a determination.~~

~~It shall be the responsibility of the Director of Housing Choice Voucher to ensure that any actions or decisions taken within the Housing Choice Voucher Department affecting any employee's participant status or the participant status of an employee's relative are in accordance with all applicable policies and procedures. It shall be the responsibility of the Director of Occupancy to ensure that any actions or decisions taken within the Occupancy Department affecting any applicant's status or the applicant status of an employee's relative are in accordance with all applicable policies and procedures. Both Directors shall ensure that the employee or employee's relative shall neither suffer any loss of benefit nor receive any gain of benefits as a result, direct or indirect, of her/his employment at the Authority or her/his relationship to an Authority employee. As such:~~

- ~~1. Any time action is taken or a decision is made which affects the applicant or participant status of an Authority employee or a relative of an Authority employee in any way, all Authority paperwork must be received and signed by the appropriate Director before the action or decision becomes effective.~~
- ~~2. Each initial determination of eligibility and each selection to a program of an Authority employee or a relative of an Authority employee shall be forwarded from the Director of Occupancy to the Chief of Operations for review and final approval.~~

#### **~~14-III.C. DISCLOSURE~~**

~~Member of the classes listed below must disclose their interest or prospective interest to the HACP and HUD as follows:~~

<b><del>Relation to HACP</del></b>	<b><del>Disclosure Required</del></b>	<b><del>Disclosure Frequency</del></b>
<del>HACP Board Members</del>	<del>• PA Statement of Economic Interests</del>	<del>Annually</del>
<del>All Executive Office Staff</del>	<del>• PA Statement of Economic Interests • HACP Statement of Employee and Familial Participation in Housing Authority Programs</del>	<del>Annually</del>
<del>All Directors</del>		
<del>All Housing Choice Voucher Staff</del>		
<del>All Occupancy Staff</del>		
<del>All MIS/IT Staff</del>		
<del>All Finance Staff</del>		
<del>Contractors</del>	<del>• PA Statement of Economic Interests • HACP Statement of Employee and Familial Participation in Housing Authority Programs</del>	<del>Upon contract with the HACP, annually thereafter</del>
<del>Sub-contractors</del>		
<del>Agents of the Authority</del>		

## **~~14-III.D DISCIPLINARY PROCEDURES~~**

### **HACP Policy**

~~It is the policy of the HACP to operate all of its programs in an ethical manner and in such a way that no group or individual shall have an unfair advantage in the receipt of the HACP's programs and services. The HACP will vigorously investigate any suspected violation of its Conflict of Interest policies and will cooperate with HUD's Office of Inspector General, local and the HACP police and any other appropriate bodies when conducting investigations of suspected violations.~~

~~Appropriate penalties shall be determined for each individual case. Available penalties include written reprimand, suspension, probation, demotion, termination, and criminal prosecution as subscribed in HACP Employee Handbook.~~

## **~~14-III.E. WAIVER CONFLICT OF INTEREST PROVISIONS~~**

~~The conflict of interest prohibitions detailed under this section may be waived for good cause by the HUD field office.~~

## **~~14-III.F. GIFT POLICY~~**

~~The HACP employees are prohibited from soliciting or accepting any valuable gift, whether in the form of service, favor, loan, thing or promise from any person, firm, or corporation which, to the employee's knowledge, is interested directly or indirectly in business dealings or in any manner whatsoever with the HACP. Employees may not accept any gift that may tend to influence the employee in the discharge of his/her duties or grant in the discharge of his/her duties any improper favor, service, or thing of value.~~

~~The value of the gift will not by itself determine whether the gift is improper to accept. A gift should not be accepted if it could cause the public to suspect that it is in payment for a work-related favor.~~

## **~~14-III.G. OVERVIEW~~**

~~The Housing Choice Voucher Department utilizes the HACP's Employee Code of Ethics Policy, as subscribed to in Supervisor's Human Resources Policy Manual.~~

## CHAPTER 15 SPECIAL HOUSING TYPES [24 CFR 982 SUBPART M; NEW HCV GB, *SPECIAL HOUSING TYPES*]

### INTRODUCTION

The PHA may permit a family to use any of the special housing types discussed in this chapter. However, the PHA is not required to permit families receiving assistance in its jurisdiction to use these housing types, except that 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.

#### HACP Policy

Families receiving assistance from the HACP will be permitted to use only the following special housing types unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities:

- Single Room Occupancy
- Manufactured Homes (including manufactured home space rental)
- Homeownership (as amended by MTW authority)

Special housing types include single room occupancy (SRO), congregate housing, group homes, shared housing, cooperative housing, manufactured homes where the family owns the home and leases the space, and homeownership [24 CFR 982.601]. A single unit cannot be designated as more than one (1) type of special housing. The PHA cannot give preference to households that wish to live in any of these types of housing and cannot require households to select any of these types of housing [New HCV GB, *Special Housing Types*, p. 3].

#### HACP Policy

~~Families receiving assistance from the HACP will be permitted to use only the following special housing types:~~

- ~~Single Room Occupancy~~
- ~~Manufactured Homes (including manufactured home space rental)~~
- ~~Homeownership (as amended by MTW authority)~~

~~Families are not permitted to use any other special housing types, unless use is needed as a reasonable accommodation so that the program is readily accessible to a person with disabilities. The description of prohibited special housing types is included here in case they are used as a reasonable accommodation.~~

This chapter consists of the following threeseven (73) parts. Each part contains a description of the housing type and any special requirements associated with it. Except as modified by this chapter, the general requirements of the HCV program apply to special housing types.

Part I: Single Room Occupancy

Part II: Congregate Housing

~~Part III: Group Homes~~

~~Part IV: Shared Housing~~

~~Part V: Cooperative Housing~~

Part ~~VII~~: Manufactured Homes (including manufactured home space rental)

Part ~~VIII~~: Homeownership

## **PART I: SINGLE ROOM OCCUPANCY [24 CFR 982.602 THROUGH 982.605; FORM HUD-52641; NEW HCV GB, SPECIAL HOUSING TYPES, P. 4]**

### **15-I.A. OVERVIEW**

A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant 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 t.~~ The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Single room occupancy (SRO) housing.”.

### **15-I.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION**

The payment standard for SRO housing is seventy-five (75) percent of the zero (0) bedroom payment standard amount on the PHA’s payment standard schedule.

The utility allowance for an assisted person residing in SRO housing is seventy-five (75) percent of the zero (0) bedroom utility allowance.

The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the TTP or the gross rent for the unit minus the TTP.

### **15-I.C. HOUSING QUALITY STANDARDS (HQS)**

HQS requirements described in Chapter 8 apply to SRO housing except that sanitary facilities, and space and security characteristics must meet local code standards for SRO housing. In the absence of applicable local code standards for SRO housing, the following standards apply: ~~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 (2) or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.

- *Fire Safety:* All SRO facilities must have a sprinkler system that protects major spaces. “Major spaces” are defined as hallways, large common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards the requirements discussed below apply [24 CFR 982.605].

- *Sanitary Facilities:* At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six (6) persons (or fewer) residing in the SRO facility. If the SRO units are leased only to ~~men~~males, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway to all persons sharing them, and may not be located more than one (1) 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 (4) square feet of closet space with an unobstructed height of at least five (5) feet, for use by the occupant. If the closet space is less than four (4) square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

## **PART II: CONGREGATE HOUSING [24 CFR 982.606 THROUGH 982.609; FORM HUD-52641; NEW HCV GB, SPECIAL HOUSING TYPES, P. 6]**

### **15-H.A. OVERVIEW**

~~Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom and bathroom.~~

~~Food service for residents must be provided.~~

~~If approved by the PHA, a family member or live-in aide may reside with the elderly person or person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.~~

~~When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family, and the The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Congregate housing.”~~



## **~~15-II.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION~~**

~~The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area for the assisted family. If there is only one (1) room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), the PHA must use the payment standard for a zero-bedroom unit. If the unit has two or more rooms (other than the bathroom and the kitchen), the PHA must use the one-bedroom payment standard.~~

~~The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.~~

~~The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.~~

## **~~15-II.C. HOUSING QUALITY STANDARDS~~**

~~HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below:~~

~~Congregate housing must have (1) a refrigerator of appropriate size in the private living area of each resident; (2) a central kitchen and dining facilities located within the premises and accessible to the residents, and (3) food service for the residents, that is not provided by the residents themselves.~~

~~The congregate housing must contain adequate facilities and services for sanitary disposal of food waste and refuse, including facilities for temporary storage when necessary.~~

~~The housing quality standards applicable to lead-based paint do not apply unless a child under the age of six (6) is expected to reside in the unit.~~

## **~~PART III: GROUP HOME [24 CFR 982.610 THROUGH 982.614; AND NEW HCV GB, SPECIAL HOUSING TYPES P. 7-48]~~**

### **~~15-III.A. OVERVIEW~~**

~~A group home is a state approved (licensed, certified, or otherwise approved in writing by the state) facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly 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 (2) 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 twelve (12) persons may reside in a group home including assisted and unassisted residents and any live-in aides.~~

~~If approved by the PHA, a live-in aide may live in the group home with a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.~~

~~When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family, and the standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Group home.”.~~

### ~~15-III.B. PAYMENT STANDARD, UTILITY ALLOWANCE, AND HAP CALCULATION~~

~~Unless there is a live-in aide, the family unit size (voucher size) for an assisted occupant of a group home must be zero or one bedroom, depending on the PHA’s subsidy standard. If there is a live-in aide, the aide must be counted in determining the household’s unit size.~~

~~The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the prorate share of the payment standard for the group home size. The prorated share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home. The number of persons in the assisted household equals one (1) assisted person plus any PHA-approved live-in aide.~~

~~The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.~~

~~The utility allowance for an assisted occupant in a group home is the prorated share of the family unit size utility allowance for the group home.~~

~~The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the prorated portion of the reasonable rent for the group home. In determining reasonable rent, the PHA should must consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.~~

### ~~15-III.C. HOUSING QUALITY STANDARDS~~

~~The entire unit must comply with HQS requirements described in Chapter 8, apply to group homes except for the requirements stated below.~~

- ~~• *Sanitary Facilities:* A group home must have at least one (1) 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 (4) 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 (1) bedroom of appropriate size for every two (2) people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. Doors and windows accessible from outside the unit must be lockable.~~
- ~~• *Structure and Material:* To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.~~

- ~~*Site and Neighborhood:* Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from disturbing noises and reverberations and other hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:~~

- ~~— Dangerous walks or steps — Smoke or dust~~
- ~~— Instability — Excessive noise~~
- ~~— Flooding, poor drainage — Vibrations or vehicular traffic~~
- ~~— Septic tank back-ups — Excessive accumulations of trash~~
- ~~— Sewage hazards — Vermin or rodent infestation, and~~
- ~~— Mud slides — Fire hazards~~
- ~~— Abnormal air pollution~~

~~The housing quality standards applicable to lead-based paint do not apply unless a child under the age of six (6) is expected to reside in the unit.~~

## **PART IV: SHARED HOUSING [24 CFR 982.615 THROUGH 982.618; FORM HUD-52641; NOTICE PIH 2021-05; NEW HCV GB, SPECIAL HOUSING TYPES, P. 11]**

### **15-IV.A. OVERVIEW**

~~Families in markets with tight rental conditions or with a prevalence of single-family housing may determine a shared housing living arrangement to be a useful way to secure affordable housing. PHAs offering shared housing as a housing solution may also experience some reduction in the average per-unit-cost (PUC) paid on behalf of assisted families.~~

~~Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The unit may be a house or an apartment. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.~~

~~An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons.~~

~~Shared housing may be offered in a number of ways, including for-profit co-living (such as a boarding house, single bedroom with common living room/kitchen/dining room) run by a private company [Notice PIH 2021-05].~~

~~The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.~~

~~If approved by the PHA, a live-in aide may reside with the family to care for a person with disabilities. The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.~~

When 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. shared housing is offered as a housing option, HUD encourages PHAs to consider ways in which the families may be assisted in finding shared housing, including for profit shared housing matching (such as roommates or single family homes) and online sites that charge a fee for their matching services, or nonprofit shared housing matching services. HUD further encourages PHAs to include information about this housing possibility in the family's voucher briefing.

PHAs should be aware of potential legal barriers to HCV participants using shared housing, which can create additional obstacles for shared housing:

Municipalities may have occupancy limits for the number of unrelated persons who may share a housing unit.

Local zoning codes for single family housing may restrict occupancy in certain areas to households whose family members are related by blood.

PHAs should work with local jurisdictions to find solutions that encourage affordable housing and are consistent with the Fair Housing Act, Title VI, and other federal, state, and local fair housing laws. PHAs should inform HUD if they encounter barriers to shared housing that may conflict with fair housing laws.

When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Shared housing."

#### **15-IV.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION**

The payment standard for a family in shared housing is the lower of the payment standard for the family unit size (voucher size) or the prorated pro rata share of the payment standard for the shared housing unit size.

The prorated pro rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private, non-shared space by the total number of bedrooms in the unit.

##### **Example:**

Family holds a 2 bedroom voucher.

Shared housing unit size (bedrooms available to assisted family): 2; Total bedrooms in the unit: 3

2 bedrooms (for assisted family) ÷ 3 bedrooms (total in the unit) = .667 pro-rata share

2 Bedroom payment standard: \$1,200; 3 Bedroom payment standard: \$1,695

\$1,695 x .667 (pro-rata share) = \$1,131

\$1,131 is lower than the \$1,200 payment standard for the 2 bedroom family unit size.

\$1,131 is used to calculate the HAP.

The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

The utility allowance for an assisted family living in shared housing is the prorated pro rata share of the utility allowance for the shared housing unit.

**Example:** A family holds a 2-bedroom voucher. The family decides to occupy 3 out of 4 bedrooms available in the unit.

- \_\_\_\_\_ The utility allowance for a 4 bedroom unit equals **\$200**
- \_\_\_\_\_ The utility allowance for a 2 bedroom unit equals **\$100**
- \_\_\_\_\_ The **pro rata** share of the utility allowance is **\$150** (3/4 of \$200)
- \_\_\_\_\_ The PHA will use the 2 bedroom utility allowance of **\$100.**)

The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the PHA should may consider whether sanitary and food preparation areas are private or shared

### **15-IV.C. HOUSING QUALITY STANDARDS**

The PHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

- *Facilities Available for the Family:* Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.
- *Space and Security:* The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one (1) bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size (voucher size). A zero (0) bedroom or one (1) bedroom unit may not be used for shared housing.

## **PART V: COOPERATIVE HOUSING [24 CFR 982.619; NEW HCV GB, *SPECIAL HOUSING TYPES*, P. 14]**

### **15-V.A. OVERVIEW**

This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged “rent” a cooperative member is charged a “carrying charge.” The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. It does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

~~The occupancy agreement or lease and other appropriate documents must provide that the monthly carrying charge is subject to Section 8 limitations on rent to owner, and the rent must be reasonable as compared to comparable unassisted units.~~

~~When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Cooperative housing.”~~

### ~~15-V.B. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION~~

~~The payment standard and utility allowance are determined according to regular HCV program requirements.~~

~~The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the gross rent (monthly carrying charge for the unit, plus any utility allowance), minus the TTP. The monthly carrying charge includes the member’s share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.~~

### ~~15-V.C. HOUSING QUALITY STANDARDS~~

~~All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements. The PHA remedies described in 24 CFR 982.404 do not apply. Rather, if the unit and premises are not maintained in accordance with HQS, the PHA may exercise all available remedies regardless of whether the family or cooperative is responsible for the breach of HQS.~~

~~No housing assistance payment can be made unless the unit meets HQS and the defect is corrected within the period as specified by the PHA and the PHA verifies corrections (see Chapter 8).~~

~~In addition to regular breaches of HQS, breaches of HQS by the family include failure to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement [HCV GB].~~

## **PART ~~VIII~~: MANUFACTURED HOMES [24 CFR 982.620 THROUGH 982.624; ~~FR~~ NOTICE 1/18/17; NEW HCV GB, SPECIAL HOUSING TYPES, P. 15]**

### **15-~~VIII~~.A. OVERVIEW**

A manufactured home is a manufactured structure, transportable in one or more parts, which is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in ~~two~~-three (3) different ways.

- (1) A family can choose to rent a manufactured home already installed on a space and the PHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below.



(2) A family can purchase a manufactured home under the Housing Choice Voucher Homeownership program.

(2)(3) HUD also permits an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. PHAs may, but are not required to, provide assistance for such families.

## **15-~~VII~~.B. SPECIAL ~~POLICIES-REQUIREMENTS~~ 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-designated HAP contract (form HUD-52642) and designated Tenancy Addendum (Form HUD-52642-aA) ~~and separate HAP Contract (Form 52642)~~ for this special housing type.

## **15-~~VII~~.C. PAYMENT STANDARD, UTILITY ALLOWANCE AND HAP CALCULATION ~~IFR~~ 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.

The FMR for a manufactured home space is generally forty (40) percent of the published FMR for a two-bedroom unit or, where approved by HUD, the fortieth percentile of the rental distribution of manufactured home spaces for the FMR area. The PHA may establish a payment standard for manufactured home spaces that is between 90-110 percent of the FMR for manufactured home spaces.

### **Utility Allowance**

The PHA must establish utility allowances for manufactured home space rental. For the first twelve (12) months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

## Space Rent

~~The space rent is the sum of the rent to the owner for the manufactured home space, any charges for maintenance and management provided by the owner, and the utility allowance for tenant-paid utilities.~~

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 utilities.

## Amortization Costs

The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family. In addition, set-up charges incurred before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

## Housing Assistance Payment

The HAP for a manufactured home space under the ~~housing-Housing choice-Choice voucher-Voucher~~ program is the lower of the payment standard minus the TTP or the ~~(gross)~~ manufactured home space rent (including other eligible housing expenses) minus the TTP.

## Rent Reasonableness

Initially, and at least annually thereafter, the PHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. The PHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly ~~HAP-check~~housing assistance payment, the owner of the manufactured home space certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the same manufactured home park or elsewhere.

If requested by the PHA, the owner must give the PHA information on rents charged by the owner for other manufactured home spaces.

## ~~15-VII~~D. HOUSING QUALITY STANDARDS

Under either type of occupancy described in 15-VI.A above, the manufactured home must meet all HQS performance requirements and acceptability criteria discussed in Chapter 8 of this plan. In addition, the following requirement applies:

### *Manufactured Home Tie-Down*

A manufactured home must be placed on the site in a stable manner, and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

## PART VII: HOMEOWNERSHIP [24 CFR 982.625 THROUGH 982.643]

### 15-VIII.A. OVERVIEW [24 CFR 982.625]

The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option 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 (2) 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. However, PHAs may not offer down payment assistance until and unless funding is allocated by Congress. Since this has not yet happened, only monthly homeownership assistance may be offered.~~

~~The PHA may choose not to offer homeownership assistance. However, the PHA must offer homeownership assistance if needed by a reasonable accommodation so that the program is readily accessible to and useable 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 aid if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.~~

#### HACP Policy

The HACP will offer monthly homeownership assistance payments option only to elderly or disabled households who qualify for a reasonable accommodation and choose this option instead of the closing cost assistance and/or the soft second mortgage option in HACP's Moving To Work (MTW) Homeownership Program. For additional information on the HACP's MTW Homeownership Program, please refer to the most recent MTW Annual Plan.

~~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.~~

## 15-VII.B. FAMILY ELIGIBILITY [24 CFR 982.627]

If the PHA offers the homeownership option, participation by the family is optional. However, tThe 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 twelve (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 thirty (30) hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family.
- The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, the 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 CFR 982.631(c).

### 15-VII.C. SELECTION OF FAMILIES [24 CFR 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-VIII.D. ELIGIBLE UNITS [24 CFR 982.628]

In order for a unit to be eligible, the PHA must determine that the unit satisfies all of the following requirements:

- The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:
  - A public housing or Indian housing unit;
  - A unit receiving Section 8 project-based assistance;
  - A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;
  - A college or other school dormitory;
  - On the grounds of penal, reformatory, medical, mental, or similar public or private institutions.
- ~~The unit must be under construction or already exist at the time the family enters into the contract of sale.~~
- The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium.
- The unit must have been inspected by the 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 forty (40) years.
- Families may enter into contracts of sale for units not yet under construction. However, the PHA will not commence homeownership assistance for the family for that unit until:
  - Either the responsible entity completes the environmental review as required by 24 CFR part 58 and HUD approved the environmental certification and request for release of funds prior to commencement of construction or HUD performed an environmental review under CFR part 50 and notified the PHA in writing of environmental approval of the site prior to construction commencement; and
  - Construction of the unit has been completed and the unit has passed the required HQS inspection and independent inspection as addressed elsewhere in this chapter.

- For PHA-owned units all of the following conditions must be satisfied:
  - The PHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a PHA-owned unit is freely selected by the family without PHA pressure or steering;
  - The unit is not ineligible housing;
  - The PHA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any PHA provided financing. All of these actions must be completed in accordance with program requirements.

The PHA must not approve the unit if the PHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation.

### **15-VIII.E. ADDITIONAL PHA REQUIREMENTS FOR SEARCH AND PURCHASE [24 CFR 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 for a voucher.

### **15-VIII.F. HOMEOWNERSHIP COUNSELING [24 CFR 982.630]**

Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA. 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-VIII.G. HOME INSPECTIONS, CONTRACT OF SALE, AND PHA DISAPPROVAL OF SELLER [24 CFR 982.631]**

### **Home Inspections**

The PHA may not commence monthly homeownership assistance payments ~~or provide down payment assistance grants~~ for a family until the PHA has inspected the unit and has determined that the unit passes HQS.

An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

The PHA may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor, or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

The PHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS.

### **Contract of Sale**

Before commencement of monthly homeownership assistance payments ~~or receipt of a down payment assistance grant~~, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the PHA a copy of the contract of sale. The contract of sale must:

- Specify the price and other terms of sale by the seller to the purchaser;
- Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;
- Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;
- Provide that the purchaser is not obligated to pay for any necessary repairs; and
- Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

- A contract for the sale of a unit not yet under construction must meet all above requirements and the requirements below. Commencement of construction in violation of the below requirements voids the purchase contract.
  - The purchaser is not obligated to purchase the unit unless an environmental review has been performed and the site received environmental review approval prior to commencement of construction in accordance with 24 CFR 982.628; and
  - The construction will not commence until the environmental review has been completed and the seller has received written notice from the PHA that environmental approval has been obtained. Environmental approval may be conditioned on the contracting parties' agreement to modification to the unit design or to mitigation actions.

### 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 CFR 982.306(c)].

## 15-VIII.H. FINANCING [24 CFR 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-VIII.I. CONTINUED ASSISTANCE REQUIREMENTS; FAMILY OBLIGATIONS [24 CFR 982.633]

Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD [form HUD-52649]. In the statement, ~~in which~~ the family agrees to comply with all family obligations under the homeownership option.

The family must comply with the following obligations:

- The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt.
- The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR 982.551 (h) and (i).
- The family must supply information to the PHA or HUD as specified in 24 CFR 982.551(b). The family must further supply any information required by the 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.
- The family must provide the PHA with information on any satisfaction or payment of the mortgage debt.
- No family member may have any ownership interest in any other residential property.
- The family must comply with the obligations of a participant family described in 24 CFR 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR 982.551(c), (d), (e), (f), (g) and (j).

#### **15-VIII.J. MAXIMUM TERM OF HOMEOWNER ASSISTANCE [24 CFR 982.634]**

Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

- Fifteen years (15), if the initial mortgage incurred to finance purchase of the home has a term of twenty (20) years or longer; or
- Ten (10) 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.<sup>2</sup>

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 six (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-VIII.K. HOMEOWNERSHIP ASSISTANCE PAYMENTS AND HOMEOWNERSHIP EXPENSES [24 CFR 982.635]**

The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

In determining the amount of the homeownership assistance payment, the PHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described 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 one hundred eighty (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 must include amounts allowed by the PHA to cover:

- Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
- Real estate taxes and public assessments on the home;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;
- The PHA utility allowance for the home;
- Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;
- Land lease payments where a family does not own fee title to the real property on which the home is located; [see 24 CFR 982.628(b)].
- For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

The PHA does not have the discretion to exclude any of the listed homeownership expenses or to add any additional items.

Homeownership expenses for a cooperative member ~~may only~~ include amounts allowed by the PHA to cover:

- The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
- Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
- Home insurance;
- The PHA allowance for maintenance expenses;
- The PHA allowance for costs of major repairs and replacements;

- The PHA utility allowance for the home; and
- Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if the PHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person.
- Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

The PHA may pay the homeownership assistance payments directly to the family, or at the PHAs'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.

#### **15-VIII.L. PORTABILITY [24 CFR 982.636, 982.637, 982.353(b) and (c), 982.552, 982.553]**

Subject to the restrictions on portability included in HUD regulations and PHA policies, a family may exercise portability if the receiving PHA is administering a voucher homeownership program and accepting new homeownership families. The receiving PHA may absorb the family into its voucher program, or bill the initial PHA.

The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.

#### **15-VIII.M. MOVING WITH CONTINUED ASSISTANCE [24 CFR 982.637]**

A family receiving homeownership assistance may move with continued tenant-based ~~assistance~~. ~~The family may move with voucher rental~~ assistance or with voucher homeownership assistance.

The PHA must determine that all initial requirements have been satisfied if a family that has received homeownership assistance wants to move with continued homeownership assistance. However, the following do not apply:

- The requirement that a family must be a first-time homeowner is not applicable.
- The requirement for pre-assistance counseling is not applicable. However, the PHA may require that the family complete additional counseling (before or after moving to a new unit with continued homeownership assistance).

Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home. However, when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault or stalking and the move is needed to protect the health or safety of the family or family member (or any family members 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), such family or family member may be assisted with continued tenant-based assistance even if they own any title or other interest in the prior home.

The PHA may deny permission to move to a new unit with continued voucher assistance:

- If the PHA has insufficient funding to provide continued assistance.
- In accordance with 24 CFR 982.638, regarding denial or termination of assistance.
- In accordance with the PHA's policy regarding number of moves within a twelve (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~~ The family has moved, or will move, from the home within the period established or approved by HUD.

## **15-VIII.N. DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 982.638]**

At any time, the PHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR 982.552 (Grounds for denial or termination of assistance) or 24 CFR 982.553 (Crime by family members).

The PHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts 982.551 or 982.633 and in accordance with its own policy, with the exception of failure to meet obligations under the Family Self-Sufficiency program as prohibited under the alternative requirements set forth in FR Notice 12/29/14.

Homeownership assistance for a family automatically terminates 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 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

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### INTRODUCTION

This chapter discusses administrative policies and practices that are relevant to the activities covered in this plan. The policies are discussed in seven parts as described below:

Part I: Administrative Fee Reserve. This part describes the PHA's policies with regard to oversight of expenditures from its administrative fee reserve.

Part II: Setting Program Standards and Schedules. This part describes 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~~of failure to make payments in accordance with a repayment agreement.

Part V: Section 8 Management Assessment Program (SEMAP). ~~As an MTW Agency, as of the date of the revised Administrative Plan (04-2012) the HACP is not subject to SEMAP. As a part of MTW, HACP will develop performance measures to address the SEMAP requirements.~~ 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~~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 IX: Violence Against Women Act (VAWA): Notification, Documentation, And Confidentiality. This part contains key terms used in VAWA and describes requirements related to notifying families and owners about their rights and responsibilities under VAWA; requesting documentation from victims of domestic violence, dating violence, stalking, and human trafficking; and maintaining the confidentiality of information obtained from victims.

## PART I: ADMINISTRATIVE FEE RESERVE [24 CFR 982.155]

The PHA will maintain administrative fee reserves, or unrestricted net ~~assets-position~~ (~~UNA-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 (2) 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 ~~UNA-UNP~~ account from funding provided prior to 2004 may be used for “other housing purposes permitted by state and local law,” in accordance with 24 CFR 982.155(b)(1).

In addition, as specified in Notice PIH 2022-18, PHAs may use administrative fee funding for both administrative and “other expenses” needed to employ strategies and undertake activities beyond regulation administrative responsibilities to facilitate the successful leasing and use of Housing Choice Vouchers by families, such as through the use of security deposit assistance and landlord recruitment and incentive payments, among other allowable expenses specified in the notice. PHAs are also permitted to use UNP for these expenses [Notice PIH 2022-18].

If a PHA has not adequately administered its HCV program, HUD may prohibit use of funds in the ~~UNA-UNP Account-account~~ and may direct the PHA to use funds in that account to improve administration of the program, for HCV HAP expenses, or to reimburse ineligible expenses in accordance with the regulation at 24 CFR 982.155(b)(3).

HUD requires the PHA Board of Commissioners or other authorized officials to establish the maximum amount that may be charged against the ~~UNA-UNP~~ account without specific approval.

### HACP Policy

Expenditures from the ~~UNA-UNP~~ account will be made in accordance with all applicable ~~Federal-federal~~ requirements. The HACP Board of Commissioners authorized~~s~~ the Executive Director to expend up to \$50,000 per occurrence without ~~the~~ prior approval.

Any item(s) exceeding \$50,000 will require prior Board approval before any charge is made against the Housing Choice Voucher Administrative Fee Reserve.

## 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).

## HACP Policy

Copies of the payment standard and utility allowance schedules are available for review in the HACP's offices during normal business hours and on the HACP website.

Families, owners, and members of the public may submit written comments on the schedules discussed in this part, at any time, for consideration during the next revision cycle.

The HACP will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least three (3) years.

Unless there is a substantial change in the payment standard and/or the utility allowance calculation methodology, the HACP will not submit the fiscal year payment standard charts and utility allowance schedules for board approval.

Establishing and updating the PHA passbook rate, which is used to calculate imputed income from assets, is covered in Chapter 6 (see Section 6-I.G.).

## **16-II.B. PAYMENT STANDARDS [24 CFR 982.503; HCV GB, Chapter 7]**

The payment standard sets the maximum subsidy payment a family can receive from the PHA each month [24 CFR 982.505(a)]. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The PHA must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the PHA's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the PHA may establish a single payment standard amount for the whole FMR area or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the PHA is required to establish a payment standard within a "basic range" established by HUD – between 90 and 110 percent of the published FMR for each unit size.

## HACP Policy

Through its MTW authority, the HACP has received HUD approval for the following payment standards, which all exceed the basic range:

1. Tiered (Baseline)
2. Rehabilitation
3. Reasonable Accommodations

## **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 CFR 982.503(b)]. HUD may require the PHA to make further adjustments if it determines that rent burdens for assisted families in the PHA's jurisdiction are unacceptably high 24 CFR 982.503(g)].

## HACP Policy

The HACP will review the appropriateness of the payment standards on an annual basis in conjunction with drafting the MTW Annual Plan, when the new FMR is published, and at other times as determined necessary. The HACP will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

**Funding Availability:** The HACP 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 HACP 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 (as amended by MTW):** Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than forty (40) percent of their monthly adjusted income as the family share. When forty (40) percent or more of families, for any given unit size, are paying more than forty (40) percent of adjusted monthly income as the family share, the HACP will consider increasing the payment standard. In evaluating rent burdens, the HACP will not include families renting a larger unit than their family unit size.

**Quality of Units Selected:** The HACP 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 HACP may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percentage of increases/decreases by bedroom size.

**Unit Availability:** The HACP ~~will~~may review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

**Lease-up Time and Success Rate:** The HACP ~~will~~may consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

Changes to payment standard amounts will be effective at the start of the HACP's fiscal year on the first day of January. If the HACP has already processed reexaminations that will be effective on or after the first day of January, the HACP will make retroactive adjustments to any such reexaminations if the new payment standard amount is higher than the one used by the HACP at the time the reexamination was originally processed.

### **Exception Payment Standards [982.503(c)(5), Notice PIH 2018-01, FR Notice 9/2721]**

~~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 fifty (50) percent of the population of the FMR area.~~

A non-SAFMR PHA may establish an exception payment standard for a zip code area of up to and including 110 percent of the SAFMR determined by HUD for that zip code area. Regardless of the level of the exception payment standard compared to the metropolitan area FMRs (MAFMRs), the PHA must send an email to SAFMRs@hud.gov to notify HUD that it has adopted an exception payment standard based on the SAFMR. A PHA that adopts an exception payment standard pursuant to this authority must apply it to the entire ZIP code area, for both its HCV, and if applicable, its PBV program. For the PBV program, this means that the rent to owner may not exceed the new exception payment standard amount, provided the rent is still reasonable. A PHA that adopts an exception payment standard area must revise its briefing materials to make families aware of the exception payment standard and the area that it covers.

In addition, HUD allows PHAs to establish a HUD-Veterans Affairs Supportive Housing (HUD-VASH) exception payment standard. PHAs may go up to but no higher than 120 percent of the FMR or SAFMR specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD (See Section 19-III.E.).

### **HACP Policy**

Through its MTW authority, the HACP has HUD approval to exception payment standards for the entirety of the HCV program as follows:

***Tiered:*** The Tiered (Baseline) Voucher Payment Standard uses recent American Community Survey (ACS) five (5) year estimates, census tracts in Allegheny County were sorted into one of seven payment standard tiers based on how far above, at, or below their all-bedroom Median Gross Rent (MGR) fell from Allegheny County's all-bedroom Median Gross Rent. Census tracts were then set a given percentage above, at, or below the HUD's hypothetical Allegheny County Fair Market Rent (ACFMR) based on which payment standard tier they were sorted into. Census tracts (regardless of opportunity status) under the HACP's jurisdiction were set to be no lower than Tier 6 (one hundred-ten (110) percent of ACFMR) and all of the existing opportunity zones under the former Mobility Payment Standards were built into Tier 1 (one hundred-sixty (160) percent of ACFMR). The tier breakdown is as follows:

<b>Tier</b>	<b>Sort Condition (tract MGR/County MGR)</b>	<b>Percent Above ACFMR</b>
7	$\geq .91, \leq 1$ of AC MGR	100%
6	$\geq 1.01, \leq 1.1$ of AC MGR	110%
5	$\geq 1.11, \leq 1.2$ of AC MGR	120%
4	$\geq 1.21, \leq 1.3$ of AC MGR	130%
3	$\geq 1.31, \leq 1.4$ of AC MGR	140%
2	$\geq 1.41, \leq 1.5$ of AC MGR	150%
1	$\geq 1.51$ of AC MGR	160%

The only criterion to determine which tier the unit will fall under is the unit's census tract location. This payment standard will be available to current voucher holders and new admissions to the Housing Choice Voucher (HCV) program regardless of their participation in the Community Choice Demonstration. However, EHV voucher holders cannot utilize this payment standard until the HACP receives waiver approval and must continue to use one hundred-twenty (120) percent of the Metropolitan Statistical Area Fair Market Rent (MSAFMR).

**Reasonable Accommodations:** Through its MTW authority, the HACP is approved to increase the payment standard by ten (10) percent of the unit's applicable tiered payment standard amount for people with disabilities in need of unit modifications. The unit's census tract location will determine the applicable payment standard tier in which the ten (10) percent increase will be applied.

### Eligibility Requirements

The family must be approved for a change to the payment standard through the reasonable accommodation process and/or submit evidence that the unit is fully wheelchair accessible or has a minimum of at least four (4) accessible features that are needed by the prospective voucher holder, which would need to be verified by their third party professional. Additionally, the unit must be inspected by the HACP to confirm the required accessible features as outlined in the reasonable accommodation approval letter are present.

**Rehabilitation:** Units in this payment option can receive an additional ten (10) percent of the unit's applicable tiered payment standard amount. For example, if the unit's census tract location is in Tier 4, the rent calculations for that unit would use the payment standard dollar amount equal to one hundred-forty (140) percent instead of one hundred-thirty (130) percent of the Allegheny County Fair Market Rent (ACFMR).

This payment option is neither indefinite nor for one time use but rather remains available to the landlord should the approved unit change voucher holders. For a unit to qualify for this option the property must be a new unit (the HACP defines a new unit as a property that was not receiving subsidy during the prior twelve (12) month period) and meet at least one of the following:

- Undergo significant upgrades and/or investments that improve the quality of the unit. Examples include (but are not limited to) complete electrical, plumbing, HVAC installation, roof replacement, and building envelope resurfacings. This will be assessed on the following standards:
  - System upgrades\*, and/or
  - Rehabilitation\* of previously substandard units, and/or
  - Renovations\*
- The unit passes the International Property Maintenance Code inspection standard.
- Units built to be affordable under any Inclusionary Zoning (IZ) policy determined by the Department of City Planning.

\*The HACP will generally consider investments of six thousand dollars (\$6,000) or more per unit for labor and/or materials as a substantial rehabilitation and/or modernization project. However, the HACP will also consider substantial rehabilitation and/or modernization projects whose total cost is under six thousand dollars (\$6,000) on a case-by-case basis if the unit meets any of the other standards.

**Please Note:** Green or energy efficient infrastructure is encouraged but at this time will not qualify as an approved investment, and Low-Income Housing Tax Credit (LIHTC) units are ineligible for this payment standard during the initial fifteen (15) year affordability period.

### Required Documentation

The type and nature of the upgrades and/or investments will constitute the specific types of required documentation. However, the HACP will generally require the following:

- Copies of all construction and/or rehabilitation invoices, plans, etc.
- If claiming the International Property Maintenance Code, a copy of the International Property Maintenance Code inspection report



- If claiming that the unit falls into a current Inclusionary Zone, please request that the HACP verifies said claim with the Department of City Planning

**Emergency Housing Voucher (EHV):** Per HDU EHV waiver approval received in summer 2023, the HACP is authorized to use its tiered, rehabilitation, and reasonable accommodation payment standards for the EHV Program. PIH Notice 2018-01, the HACP is authorized to establish Exception Payment Standards up to one hundred twenty (120) percent of the Metropolitan Statistical Area Fair Market Rent (MSAFMR) without prior HUD approval. The Emergency Housing Voucher (EHV) program payment standards will remain at one hundred twenty (120) percent of the Metropolitan Statistical Area Fair Market Rent (MSAFMR) until the HACP receives waiver approval to utilize the tiered payment standard plus ten (10) percent as proposed in July 2022.

### **Voluntary Use of Small Area FMRs [24 CFR 982.503, Notice PIH 2018-01]**

PHAs that administer vouchers in a metropolitan area where the adoption of SAFMRs is not required may request approval from HUD to voluntarily adopt SAFMRs.- SAFMRs may be voluntarily adopted for one or more zip code areas.

### **HACP Policy**

The HACP will not voluntarily adopt the use of SAFMRs except to establish exception payment standards in certain zip code areas for Project-Based Voucher (PBV) new unit construction if the HACP, Allies & Ross Management and Development Corporation (ARMDC), its private development company, or any other subsidiary of the HACP is part owner.

### **Unit-by-Unit Exceptions [24 CFR 982.503(e)(2)(ii)b), 24 CFR 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 one hundred-~~ten~~-twenty (~~110~~120) percent of the applicable FMR for the unit size [~~HCV GB 7-924~~ 24 CFR 982.503(b)]. The PHA may request HUD approval for an exception to the payment standard for a particular family if the required amount ~~falls between one hundred ten (110) and~~ exceeds one hundred-twenty (120) percent of the FMR.

### **HACP Policy**

A family that requires a reasonable accommodation may request the Reasonable Accommodations Payment Standard at the time the Request for Tenancy Approval (RFTA) is submitted. The family must document the need for the exception. The HACP Disability Compliance Office will review the request with the Reasonable Accommodations Payment Standard criteria and send the family a decision letter specifying whether their request was granted, and if not, the reasons why it wasn't granted. If the reasonable accommodation is approved, the HACP will use its MTW Reasonable Accommodation payment standard in the rent calculations. The unit is still subject to rent reasonableness analysis.

### **"Success Rate" Payment Standard Amounts [24 CFR 982.503(e)]**

If a substantial percentage of families have difficulty finding a suitable unit, the PHA may request a "success rate payment standard" that applies to the entire jurisdiction. If approved by HUD, a success rate payment standard allows the PHA to set its payment standards at 90-110 percent of a higher FMR (the 50<sup>th</sup>, rather than the 40<sup>th</sup> percentile FMR). To support the request, the PHA must demonstrate that during the most recent six (6) month period for which information is available:

- Fewer than seventy-five (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 ninety (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.

#### **HACP Policy**

~~The HACP does not have any success rate payment standards.~~

### **Decreases in the Payment Standard below the Basic Range [24 CFR 982.503(d)]**

The PHA must request HUD approval to establish a payment standard amount that is lower than the basic range. At HUD's sole discretion, HUD may approve establishment of a payment standard lower than the basic range. HUD will not approve a lower payment standard if the family share for more than 40 percent of program participants exceeds thirty (30) percent of adjusted monthly income.

### **16-II.C. UTILITY ALLOWANCES [24 CFR 982.517]**

A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. The PHA must maintain a utility allowance schedule for (1) all tenant-paid utilities, (2) the cost of tenant-supplied refrigerators and ranges, and (3) other tenant-paid housing services such as trash collection.

The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, the PHA must use normal patterns of consumption for the community as a whole, and current utility rates.

The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

In the utility allowance schedule, the PHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

The cost of each utility and housing service must be stated separately by unit size and type. Chapter 18 of the *HCV Guidebook* provides detailed guidance to the PHA about establishing utility allowance schedules.

## Air Conditioning

~~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.

### HACP Policy

The HACP ~~has includes 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 HACP 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 ten (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 AND HEARINGS

### 16-III.A. OVERVIEW

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of PHA decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.” PHAs are required to include in their administrative plans informal review procedures for applicants, and informal hearing procedures for participants [24 CFR 982.54(d) (12) and (13)].

### 16-III.B. INFORMAL REVIEWS

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554] and need not be as elaborate as the informal hearing requirements [*Federal Register* 60, no. 127 (3 July 1995): 34690].

## **Decisions Subject to Informal Review [24 CFR 982.554(a) and (c)]**

The PHA must give an applicant the opportunity for an informal review of a decision denying assistance [24 CFR 982.554(a)]. Denial of assistance may include any or all of the following [24 CFR 982.552(a) (2)]:

- Denying listing on the PHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures

Informal reviews are *not* required for the following reasons [24 CFR 982.554(c)]:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- A determination of the family unit size under the PHA subsidy standards
- A PHA determination not to grant approval of the tenancy
- A PHA determination that the unit is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with the HQS due to family size or composition

### **HACP Policy**

The HACP will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes denying listing on the HACP 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.

Discretionary administrative determinations by the HACP which are exempt from the informal review process includes but is not limited to withdrawals from any HCV or PBV waiting list for the following reasons:

- Failing to appear for a scheduled appointment,
- Failing to provide requested documentation,
- Failing to respond to a letter requesting a response,
- Mail returned from the post office

## **Notice to the Applicant [24 CFR 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 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**

### **HACP Policy**

A request for an informal review must be made in writing and delivered to HACP either in person or by first class mail, by the close of the business day, no later than fifteen (15) business days from the date of the HACP's denial of assistance.

The HACP must schedule and send written notice of the informal review within fifteen (15) business days of the family's request.

If the informal review will be conducted remotely, at the time the HACP notifies the family of the informal review, the family will be informed:

Regarding the processes to conduct a remote informal review;

That, if needed, the HACP will provide technical assistance prior to and during the informal review; and

That if the family or any individual witnesses has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal review, the family may inform the PHA and the PHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal review, as appropriate.

### **Informal Review Procedures [24 CFR 982.554(b)]**

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided with an opportunity to present written or oral objections to the decision of the PHA.

### **Remote Informal Reviews [Notice PIH 2020-32]**

~~All PHA policies and processes for remote informal reviews must be conducted in accordance with due process requirements and comply with HUD regulations. Therefore, all PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations. There is no requirement that informal reviews be conducted in-person and, as such, HUD allows PHAs to conduct all or a portion of their informal review remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal reviews, applicants may still request an in-person informal review, as applicable.~~

### **HACP Policy**

The HACP has the sole discretion to require that information reviews be conducted remotely in the case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

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

## **Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person informal reviews, the platform for conducting remote informal reviews must be accessible to persons with disabilities and the informal review must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal review process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal review is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote informal review, and the PHA should consider whether postponing the remote informal review to a later date is appropriate or whether there is a suitable alternative.

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

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

## **Conducting Remote Informal Reviews**

The PHA must ensure that the lack of technology or inability to use technology for remote informal reviews does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal review and, if the family does not have the proper technology to fully participate, either postpone the informal review or provide an alternative means of access.

As with in-person informal reviews, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA must ensure that the applicant has the right to hear and be heard. All PHA policies and processes for remote informal reviews must be conducted in accordance with due process requirements and be in compliance with HUD regulations at 24 CFR 982.554 and guidance specified in Notice PIH 2020-32.

~~In conducting any informal review remotely, the PHA shall ensure due process and that all parties are able to have full access to the review.~~



## HACP Policy

The HACP will conduct remote informal reviews via a video conferencing platform, when available. If, after attempting to resolve any barriers, applicants are unable to adequately access the video conferencing platform at any point, or upon applicant request, the informal review will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal review will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five (5) business days prior to scheduling the remote review, the HACP will provide the family with login information and/or conferencing call-in information and an electronic and/or physical copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the HACP of any known barriers. The HACP will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

If the informal review is to be conducted remotely, the HACP will require the family to provide any documents directly relevant to the informal review at least twenty-four (24) hours before the scheduled review through the mail, via email, or text. The HACP will scan and email copies of these documents to the HACP representative the same day.

Documents will be shared electronically whenever possible.

The HACP will follow up the email with a phone call and/or email to the applicant at least one (1) business day prior to the remote informal review to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

The HACP will ensure that all electronic information stored or transmitted with respect to the informal review is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

~~The HACP will conduct remote informal reviews via telephone conferencing call-in or via videoconferencing. If the informal review will be conducted via videoconferencing, the HACP will ensure that all participants, participant representatives, advocates, witnesses, PHA representatives, and the hearing officer can adequately access the platform (i.e., hear, be heard, see, and be seen).~~

~~If any participant, representative, advocate, witness, PHA representative, or hearing officer is unable to effectively utilize the videoconferencing platform, the informal review will be conducted by telephone conferencing call-in.~~

~~Whether the informal review is to be conducted via videoconferencing or telephone calling, the HACP will provide all parties login information and/or telephone call-in information before the review.~~

## **Informal Review Decision [24 CFR 982.554(b)]**

The PHA must notify the applicant of the PHA's final decision, including a brief statement of the reasons for the final decision.

## HACP Policy

In rendering a decision, the HACP will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice to the family.
- The validity of grounds for denial of assistance. If the grounds for denial are not specified in the regulations, then the decision to deny assistance will be overturned.

- The validity of the evidence. The HACP 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, HACP will uphold the decision to deny assistance.

~~If the facts prove the grounds for denial, and the denial is discretionary, the HACP will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.~~

The HACP will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within fifteen (15) business days of the informal review, to the applicant and ~~his or her~~their representative, if any, along with proof of mailing.

If the decision to deny is overturned because of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand, and the family will be so notified.

### **16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]**

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that 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 that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the PHA's subsidy standards, or the PHA determination to deny the family's request for exception from the standards~~
- A determination to terminate assistance for a participant family because of the family's actions or failure to act

- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under HACP policy and HUD rules
- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

Circumstances for which an informal hearing is not required are as follows:

- Discretionary administrative determinations by the PHA
- General policy issues or class grievances
- Establishment of the PHA schedule of utility allowances for families in the program
- A PHA determination not to approve an extension or suspension of a voucher term
- A PHA determination not to approve a unit or tenancy
- A PHA determination that a unit selected by the applicant is not in compliance with the HQS
- A PHA determination that the unit is not in accordance with HQS because of family size
- A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

### HACP Policy

The HACP will only offer participants the opportunity for an informal hearing when required to by the regulations and if the HACP denies a request for a reasonable accommodation (see Chapter 2).

### **Remote Informal Hearings**

There is no requirement that informal hearings be conducted in-person, and as such, HUD allows PHAs to conduct all or a portion of their informal hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote informal hearings, applicants may still request an in-person informal hearing, as applicable.

~~The PHA's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations.~~

### HACP Policy

The HACP has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the HACP will conduct an informal hearing remotely upon request as a reasonable accommodation for a person with a disability, if a participant does not have childcare or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person hearing would create an undue health risk. The HACP will consider other reasonable requests for a remote informal hearing on a case-by-case basis. ~~Conducting Informal Hearings Remotely In conducting any informal hearing remotely, the PHA shall ensure due process and that all parties are able to have full access to the hearing.~~

## **Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person informal hearings, the platform for conducting remote informal hearings must be accessible to persons with disabilities and the informal hearings must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal hearing process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal hearings is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual their inability to participate in the remote informal hearing, and the PHA should consider whether postponing the remote hearing to a later date is appropriate or whether there is a suitable alternative.

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

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

## **Conducting Remote Informal Hearings**

The PHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

As with in-person informal hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA's essential responsibility is to ensure informal hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote informal hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 982.555 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

The PHA must ensure that the applicant has the right to hear and be heard. In conducting any informal review remotely, the PHA shall ensure due process and that all parties are able to have full access to the review.

## HACP Policy

The HACP will conduct remote informal hearings via a video conferencing platform, when available. If, after attempting to resolve any barriers, participants are unable to adequately access the video conferencing platform at any point, or upon request, the informal hearing will be conducted by telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time.

At least five (5) business days prior to scheduling the remote hearing, the HACP will provide the family with login information and/or conferencing call-in information and an electronic copy of all materials being presented via first class mail and/or email. The notice will advise the family of technological requirements for the hearing and request the family notify the HACP of any known barriers. The HACP will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

The HACP will follow up with a phone call and/or email to the family at least one (1) business day prior to the remote informal hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform.

The HACP will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

~~The HACP will conduct remote informal hearings via telephone conferencing call-in or via videoconferencing. If the informal hearing will be conducted via videoconferencing, the HACP will ensure that all participants, participant representatives, advocates, witnesses, HACP representatives, and the hearing officer can adequately access the platform (i.e., hear, be heard, see, and be seen). If any participant, representative, advocate, witness, HACP representative, or hearing officer is unable to effectively utilize the videoconferencing platform, the informal hearing will be conducted by telephone conferencing call-in. Whether the informal hearing is to be conducted via videoconferencing or telephone ealling, the HACP will provide all parties login information and/or telephone call-in information before the hearing.~~

## **Warning Meeting**

It is the HACP's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. Therefore, a meeting may be held with a Housing Choice Voucher participant in cases where that participant's alleged actions or inactions are not serious enough to justify termination of assistance. The meeting would serve to inform the participant of the Housing Authority's allegations and will also function as a formal warning and official documentation of such warning. The primary goal of a warning meeting is to resolve the Housing Authority's allegations without subjecting the participant to a hearing. The secondary goal of the meeting is to provide further documentation for cases that will proceed to a termination hearing. Regardless of whether or not a participant had a warning meeting, the participant is always entitled to an informal hearing as per HUD regulations.

## **Informal Hearing Procedures**

### ***Notice to the Family [24 CFR 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.

### **HACP Policy**

In cases where the HACP 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 HACP.
- A brief statement of the reasons for the decision, including the regulatory reference.
- The date the proposed action will take place.
- A statement of the family's right to an explanation of the basis for the HACP's decision.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- To whom the hearing request should be addressed.
- A copy of the HACP's hearing procedures.
- That the family may request a remote informal hearing.

~~If the PHA will require that the hearing be conducted remotely, at the time the notice is sent to the family informing them of the right to request an informal hearing, the family will be notified that the informal hearing will be conducted remotely. The family will be informed of the processes involved in a remote informal hearing and that the PHA will provide technical assistance, if needed, before the informational hearing.~~

### ***Scheduling an Informal Hearing [24 CFR 982.555(d)]***

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

### **HACP Policy**

A request for an informal hearing must be made in writing and delivered to the HACP either in person or by first class mail, or by email by the close of the business day, no later than ten (10) business days from the date of the HACP's decision or notice to terminate assistance.

The HACP must schedule and send written notice of the informal hearing to the family within fifteen (15) business days of the family's request.

If the HACP hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

Regarding the processes involved in a remote informal hearing:



That the HACP will provide technical assistance prior to and during the informal hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the HACP and the HACP will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict that seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the HACP may request documentation of the “good cause” prior to rescheduling the hearing.

If the family does not appear at the scheduled time and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the HACP within twenty-four (24) hours of the scheduled hearing date, excluding weekends and holidays. The HACP will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, the HACP’s decision will stand.

#### ***Pre-Hearing Right to Discovery [24 CFR 982.555(e)]***

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

#### **HACP Policy**

The family will be allowed to copy any documents related to the hearing at no cost to the family. The family must request discovery of HACP documents no later than 12:00 p.m. two (2) business days prior to the scheduled hearing date. If the family loses their documents, they may be charged for additional copies at the rates currently used by the HACP.

If the hearing is conducted remotely, the HACP will compile a hearing packet, consisting of all documents the HACP intends to produce at the informal hearing. The HACP will mail copies of the hearing packet to the family, the family’s representatives, if any, and the hearing officer at least three (3) days before the scheduled remote informal hearing. The original hearing packet will be in the possession of the HACP representative and retained by the HACP.

Documents will be shared electronically whenever possible.

~~Whenever a participant requests an informal hearing, the HACP will mail a confirmation letter to the participant informing the participant that the participant may review information relevant to the hearing at the Legal Department of the Housing Authority of the City of Pittsburgh. The family will not be charged for these documents. If the family loses their documents, they may be charged for additional copies at the rates currently used by the HACP. The family must request additional copies of the HACP documents no later than 12:00 p.m., two (2) business days prior to the scheduled hearing date. If the hearing will be conducted remotely, the HACP will provide the documents electronically whenever possible.~~

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

#### HACP Policy

~~The HACP will provide documents that will be introduced as evidence at the hearing electronically, via mail, or any other means agreed upon by the HACP's counsel and the participant and/or their counsel.~~

The HACP must be given an opportunity to examine, ~~at the HACP's offices before the hearing,~~ any family documents that are directly relevant to the hearing. ~~For in-person hearings, this pre-hearing discovery may take place at the HACP's offices before the hearing.~~

~~If the informal hearing is to be conducted remotely, the HACP will require the family to provide any documents directly relevant to the informal hearing by no later than 12:00 pm on the business day prior to the scheduled hearing date through mail, email, or text. The HACP will scan and email copies of these documents to the hearing officer and the HACP representative the same day. Whenever a participant requests an informal hearing, the HACP will mail a letter to the participant requesting a copy of all documents that the participant intends to present or utilize at the hearing. The participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.~~

~~Documents will be shared electronically whenever possible.~~

#### ***Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]***

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

#### ***Informal Hearing Officer [24 CFR 982.555(e)(4)]***

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

#### HACP Policy

~~The HACP has designated the following to serve as hearing officers:~~

~~Any Manager or HACP Housing Representative who was not involved in the decision and who neither reports to, nor directly supervises the person who made the decision.~~

#### ***Attendance at the Informal Hearing***

#### HACP Policy

Hearings may be attended by a hearing officer and the following applicable persons:

- A HACP representative(s) and any witnesses for the HACP
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the PHA as a reasonable accommodation for a person with a disability

## *Conduct at Hearings*

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA's hearing procedures [24 CFR 982.555(4)(ii)].

### HACP Policy

The hearing officer is responsible for managing 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. ~~The hearing officer will have everyone in attendance at the hearing sign in, will determine if either side has any objections related to discovery and will set up the tape recorder for the hearing.~~

### *Evidence [24 CFR 982.555(e)(5)]*

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

### HACP Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four (4) categories of evidence.

- **Oral evidence:** the testimony of witnesses
- **Documentary evidence:** a writing, which is relevant to the case, for example, a letter written to the HACP. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.
- **Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.
- **Real evidence:** A tangible item relating directly to the case.

~~The lone exception to the above is when third party verification is needed to substantiate hearing testimony (e.g., proof of address). The hearing officer may allow a reasonable time for either side to submit relevant information. Information that is not produced by the hearing officer's deadline will not be considered.~~

~~Hearsay Evidence is evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party seeking the change has met the burden of proof.~~

~~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 HACP 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.

### *Procedures for Rehearing or Further Hearing*

#### HACP 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 the appointment or deadline ordered by the hearing officer, the action of the HACP will take effect and another hearing will not be granted.

#### **Hearing Officer's Decision [24 CFR 982.555(e)(6)]**

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. ~~A copy of the hearing must be furnished promptly to the family.~~

#### HACP Policy

In rendering a decision, the hearing officer will consider the following matters:

- **HACP Notice to the Family:** The hearing officer will determine if the reasons for HACP's decision are factually stated in the Notice.
- **Discovery:** The hearing officer will determine if the HACP and the family were given the opportunity to examine any relevant documents in accordance with HACP policy.
- **PHA Evidence to Support the PHA Decision:** The evidence consists of the facts presented. Evidence is not conclusion, and it is not argument. The hearing officer will evaluate the facts to determine if they support the HACP's conclusion.
- **Validity of Grounds for Termination of Assistance (when applicable):** The hearing officer will determine if the termination of assistance is for one (1) of the grounds specified in the HUD regulations and HACP policies. If the grounds for termination are not specified in the regulations or in compliance with HACP policies, then the decision of HACP will be overturned.

The hearing officer will issue a written decision to the family no later than ten (10) business days after the hearing. The report will contain the following information:

- Hearing information:
  - Name of the participant;
  - Date, time and place of the hearing;
  - Name of the hearing officer;
  - Name of the HACP 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~~ their testimony and that are admitted into evidence.

- **Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.
- **Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the HACP's decision.
- **Order:** The hearing report will include a statement of whether the HACP's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the HACP to change the decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct HACP to restore the participant's program status.

### **Procedures for Rehearing or Further Hearing**

#### **HACP 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 HACP will take effect and another hearing will not be granted.~~

#### **Issuance of Decision [24 CFR 982.555(e)(6)]**

~~A copy of the hearing must be furnished promptly to the family.~~

#### **HACP Policy**

~~The hearing officer will mail a "Notice of Hearing Decision" to the HACP and to the participant on the same day. This notice will be sent electronically by email or first-class mail. A copy of the "Notice of Hearing Decision" will be maintained in the HACP's file.~~

#### **Effect of Final Decision [24 CFR 982.555(f)]**

#### **PHA Notice of Final Decision [24 CFR 982.555(f)]**

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state or local laws.

If the PHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

## HACP Policy

~~The hearing officer will mail a “Notice of Final Decision” including the hearing officer’s report to the participant and their representative. This notice will be sent by first class mail, postage pre paid, with an affidavit of mailing enclosed. The participant will be mailed the original “Notice of Final Decision” and a copy of the proof of mailing. A copy of the “Notice of Final Decision” along with the original proof of mailing will be maintained in the HACP’s file. The Executive Director has the authority to determine that the HACP is not bound by the decision of the hearing officer because the HACP was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.~~

In such a case, the HACP will mail a “Notice of Final Decision” to the HACP and the participant on the same day. The “Notice of Final Decision” will be sent by first class mail. A copy of this notice will be maintained in the HACP’s file.

### **16-III.D. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is pending, 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 CFR 5.514(d)]**

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.



## **USCIS Appeal Process [24 CFR 5.514(e)]**

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have thirty (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.

### **HACP Policy**

The HACP will notify the family in writing of the results of the USCIS secondary verification ~~after~~ within ten (10) business days of receiving the results.

The family must provide the HACP with a copy of the written request for appeal and proof of mailing within ten (10) business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

### **HACP Policy**

The HACP will send written notice to the family of its right to request an informal hearing within ten (10) business days of receiving notice of the USCIS decision regarding the family's immigration status.

## **Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within thirty (30) days of receipt of the PHA notice of denial, or within thirty (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.

## **HACP Policy**

The family will be allowed to copy any documents related to the hearing at a cost of \$.25 per page. The family must request discovery of HACP documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the 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 a 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. ~~arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties. If the family does not arrange for their own interpreter, HACP is still obligated to provide oral translation services in accordance with its LEP Plan.~~

## ***Recording of the Hearing***

The family is entitled to have the hearing recorded by audiotape. The PHA may but is not required to provide a transcript of the hearing.

## **HACP Policy**

The HACP 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 informal hearing, within fourteen (14) calendar days of the date of the informal hearing. The decision must state the basis for the decision.

## **Informal Hearing Procedures for Residents [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within thirty (30) days of receipt of the PHA notice of termination, or within thirty (30) days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance is being terminated based on immigration status, see Section 16-III.C.

## **Retention of Documents [24 CFR 5.514(h)]**

The PHA must retain for a minimum of five (5) years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the 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

## 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 CFR 982.54]. If a family breaches an agreement with the PHA to pay amounts owed to the PHA, or amounts paid to an owner by a PHA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to a PHA or amounts paid to an owner by a PHA. The PHA may prescribe the terms of the agreement [24 CFR 982.552(c)(1)(vii). This part describes the PHA's policies for recovery of monies owed to the PHA by families or owners.

#### HACP Policy

When an action or inaction of an owner or participant results in the overpayment of housing assistance, the HACP holds the owner or participant liable to return any overpayments to the HACP.

The HACP will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments. All payments due to the HACP must be made as follows:

The Housing Authority of the City of Pittsburgh  
HCV/Section 8 Program  
Attention: Support and Service Specialist  
200 Ross Street, 7<sup>th</sup> Floor 412 Boulevard of the Allies, 5<sup>th</sup> floor  
Pittsburgh, Pennsylvania, 15219

~~When an owner or participant refuses to repay monies owed to the HACP, the HACP will utilize other available collection alternatives including, but not limited to, the following:~~

- ~~• Collection agencies~~
- ~~• Small claims court~~
- ~~• Civil law suit~~
- ~~• State income tax set-off program~~

## 16-IV.B. REPAYMENT POLICY

### Owner Debts to the PHA

#### HACP Policy

Any amount due to the HACP by an owner must be repaid by the owner within thirty (30) days of the HACP determination of the debt. If the owner is entitled to future HAP payments, the HACP will reduce the future HAP payments by the amount owed until the debt is paid in full.

If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, the HACP 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 HACP may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by the HACP.

If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the HACP will ban the owner from future participation in the program and pursue other modes of collection.

When an owner or participant refuses to repay monies owed to the HACP, the HACP will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies
- Small claims court
- Civil law suitlawsuit
- State income tax set-off program

### Family Debts to the PHA

Families are required to reimburse the PHA if they were charged less rent than required because the family either underreported or failed to report income. PHAs are required to determine retroactive rent amounts as far back as the PHA has documentation of family unreported income [Notice PIH 2018-18].

#### HACP Policy

Any amount owed to the HACP by an HCV family must be repaid by the family. If the family is unable to repay the debt within thirty (30) days, the HACP will offer to enter into a repayment agreement in accordance with the policies below.

#### Refusal to Enter into an Agreement

If the family refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, the HACP-PHA mustwill terminate assistance [Notice PIH 2018-18]. in accordance with the policies in Chapter 12 and pursue other modes of collection.

#### HACP Policy

When a family refuses to repay monies owed to the HACP, in addition to termination of program assistance, the HACP will utilize other available collection alternatives including, but not limited to, the following:

- Collection agencies

- [Small claims court](#)
- [Civil lawsuit](#)
- [State income tax set-off program](#)

## Repayment Agreement [24 CFR 792.103]

The term *repayment agreement* refers to a formal written document signed by a 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*

#### HACP Policy

Before executing a repayment agreement with a family, the HACP will generally require a down payment of ten (10) percent of the total amount owed. If the family can provide evidence satisfactory to the HACP that a down payment of ten (10) percent would impose an undue hardship, the HACP may, in its sole discretion, require a lesser percentage or waive the requirement.

~~In addition, all Housing Choice Voucher current clients will need to pay any amount necessary to bring the balance under \$2,000 to remain a participant on the program.~~

### *Payment Thresholds*

Notice PIH ~~2010-19~~2018-18 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 forty (40) percent of the family’s monthly adjusted income. However, a family may already be paying forty (40) percent or more of its monthly adjusted income in rent. Moreover, Notice PIH ~~2010-19~~2018-18 acknowledges that PHAs have the discretion to establish “thresholds and policies” for repayment agreements with families [24 CFR 982.552(c)(1)(vii)].

#### HACP Policy

The HACP 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 thirty-six \(36\) months.](#)

[Amounts between \\$2,000 and \\$2,999 must be repaid within thirty \(30\) months.](#)

Amounts between \$1,000 and \$1,999 must be repaid within twenty-four (24) months.

Amounts under \$1,000 must be repaid within twelve (12) months.

If a family can provide evidence satisfactory to the HACP that the threshold applicable to the family’s debt would impose an undue hardship, the HACP may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, the HACP will consider all relevant information, including the following:

- The amount owed by the family to the HACP
- The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family’s control
- The family’s current and potential income and expenses

- The family's current family share, as calculated under 24 CFR 982.515
- The family's history of meeting its financial responsibilities

### ***Execution of the Agreement***

All repayment agreements must be in writing, dated, and signed by both the family and the PHA [Notice PIH 2018-18].

### **HACP Policy**

Any repayment agreement between the HACP and a family must be signed and dated by the HACP and by the head of household and spouse/co-head (if applicable).

### ***Due Dates***

### **HACP Policy**

All payments are due by the close of business on the date established in the repayment agreement. If the date does not fall on a business day, the due date is the close of business on the first business day after the due date.

### ***Late or Missed Payments ~~(Non-Payments)~~***

### **HACP 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 HACP, ~~the account will be considered delinquent~~ HACP will send the family a delinquency notice giving the family ten (10) business days to make the late payment. If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and the HACP will terminate assistance in accordance with the policies in Chapter 12.

If a family receives three (3) delinquency notices for unexcused late payments in a twelve (12) month period, the repayment agreement will be considered in default, and the HACP will terminate assistance in accordance with the policies in Chapter 12. Participants who are delinquent more than twice during the term of the repayment agreement will have their Housing Choice Voucher assistance terminated.

~~All moneys owed to the Housing Authority must be paid by the final due date on the repayment agreement. If the debt is not repaid in full by the final due date, then the participant's assistance will be terminated.~~

### ***No Offer of Repayment Agreement***

### **HACP Policy**

~~The HACP may not enter into a repayment agreement if there is already a repayment agreement in place with the family or owner, or the amounts owed by the family or owner exceeds \$2,000. The HACP 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~~ Terms***

All repayment agreements must be in writing, dated, signed by both the family and the PHA, including the total retroactive rent amount owed, any amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. Notice PIH 2010-19/2018-18 requires certain provisions, at minimum, 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.

#### HACP Policy

As a Moving to Work (MTW) agency, the HACP is not subject to SEMAP. As part of MTW Standard Agreement and form HUD-50900, the HACP ~~will~~ develops and reports on performance measures (metrics) that are congruent to SEMAP as a performance tool. The MTW performance measures can be found in the current year's MTW Annual Plan.

## PART VI: RECORD KEEPING

### 16-VI.A. OVERVIEW

The PHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request.

In addition, the PHA must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

## 16-VI.B. RECORD RETENTION [24 CFR 982.158; 24 CFR 908.11]

During the term of each assisted lease, and for at least three (3) 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 (3) years:

- Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;
- An application from each ineligible family and notice that the applicant is not eligible;
- HUD-required reports;
- Unit inspection reports;
- Lead-based paint records as required by 24 CFR 35, Subpart B.
- Accounts and other records supporting PHA budget and financial statements for the program;
- Records to document the basis for PHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and
- Other records specified by HUD.

The PHA must keep the last three (3) years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three (3) years from the end of participation (EOP) date [24 CFR 908.101].

The PHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three (3) years from the EOP date [Notice PIH 2018-18].

Notice PIH 2014-20 requires PHAs to keep records of all complaints, investigations, notices, and corrective actions related to violations of the Fair Housing Act or the equal access final rule.

The PHA must keep confidential records of all emergency transfer requested by victims of domestic violence, dating violence, sexual assault, and stalking under the PHA's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of three years [24 CFR 5.2002(e)(12)].

If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents. For specific requirements, see Section 16- III.D. Retention of Documents.

## 16-VI.C. RECORDS MANAGEMENT

PHAs must maintain applicant and participant files and information in accordance with the regulatory requirements described below.

### HACP Policy

All applicant and participant information will be kept in a secure location and access will be limited to authorized HACP staff.

The HACP staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

### **Privacy Act Requirements [24 CFR 5.212 and Form-9886]**

The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or 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*.

### **HACP Policy**

Prior to utilizing HUD's EIV system, the HACP 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 CFR 5.903(e)].

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation [24 CFR 5.903(g)].

The PHA must establish and implement a system of records management that ensures that any sex offender registration information received by the PHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained [Notice PIH ~~2012-28~~2018-18]. This requirement does not apply to information that is public information or is obtained by a PHA other than under 24 CFR 5.905.

## Medical/Disability Records

PHAs are not permitted to inquire about the nature or extent of a person's disability. The PHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If the PHA receives a verification document that provides such information, the PHA should not place this information in the tenant file. The PHA should destroy the document.

## Documentation of Domestic Violence, Dating Violence, 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 VII: LEAD SAFE HOUSING RULE (LSHR) REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELVATED BLOOD LEAD LEVEL (EBLL)

## 16-VII.A. OVERVIEW

The PHA has certain responsibilities relative to children with Elevated Blood Lead Levels (EBLL) that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the PHA is subject to.

## 16-VII.B. REPORTING REQUIREMENT [24 CFR 35.1225(e); [Notice PIH 2017-13](#)]

The owner must report the name and address of a child identified as having an elevated blood lead level to the public health department within five (5) business days of being so notified by any other medical health care professional. The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five (5) business days. The PHA may collaborate with the owner on the notification process, such as by agreeing with the owner to provide the required notifications on the owner's behalf.

### HACP Policy

Upon notification by the owner, the HACP will provide the public health department with written notice of the name and address of any child identified as having an elevated blood lead level within five (5) business days.

Upon notification by the owner, the HACP will notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five (5) business days.

~~When learning of a child with an EBLL from a parent, guardian, or other person or entity that is not a medical health care provider, the PHA must verify the results, and determine whether it is a confirmed EBLL.~~

~~If the parent or guardian provides the PHA or owner, as applicable, with a written EBLL diagnosis from a medical healthcare professional, or the public health department notifies the PHA or owner, as applicable, of the case, no additional verification is needed.~~

~~If an EBLL has been reported but not verified, the PHA or owner shall make at least two (2) attempts to verify the information with the medical health care provider or health department. If the PHA's verification attempts fail, the PHA must inform the Field Office, which must attempt its own verification, and/or inform OLHCHH, which will attempt the verification.~~

#### **HACP Policy**

~~HACP will hold Lead Safe Housing Rule (LSHR) compliance informational sessions with HCV owners on reporting requirements and provide the public health department with written notice of the name and address of any child under age six (6) identified as having an EBLL. The HACP will also provide EBLL hardcopy information by email/mail annually for existing landlords and initially for new landlords.~~

### **16-VII.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]**

At least quarterly, the PHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than six (6) years old with an elevated blood lead level.

If the PHA obtains names and addresses of elevated blood lead level children from the public health department(s), the PHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the PHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the PHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

~~At least quarterly, the PHA must provide an updated address list of their active HCV units built before 1978 with at least one child under the age of six (6) to the health department so that the health department may evaluate whether they have information about incidences of EBLL cases in assisted housing. If the health department does not want, or is unable, to receive this data, the PHA should document this for HUD compliance reviews.~~

#### **HACP Policy**

~~The HACP will attempt to work with the Allegheny County Public Health Department or the Pennsylvania Department of Health on a data sharing agreement that does not publicly disclose HCV residents' addresses or any other Personally Identifiable Information (PII).~~

~~PHAs should also attempt quarterly to obtain the names and addresses of children under age six (6) with an EBLL that live in their owned or managed housing from the health department. If a match occurs, the PHA shall comply with all requirements of the LSHR and this guidance.~~

~~If the PHA obtains names and addresses of EBLL children under age six (6) 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.~~

## HACP Policy

Unless the public health department(s) state that 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, the HACP will attempt to work with the Allegheny County Public Health Department or the Pennsylvania Department of Health on a data-sharing agreement that does not publicly disclose HCV residents' addresses or any other Personally Identifiable Information (PII).

## **PART VIII: DETERMINATION OF INSUFFICIENT FUNDING**

### **16-VIII.A. OVERVIEW**

The HCV regulations allow PHAs to deny families permission to move and to terminate Housing Assistance Payments (HAP) contracts if funding under the consolidated ACC is insufficient to support continued assistance [24 CFR 982.314(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 ten (10) business days [24 CFR 982.354]. Insufficient funding may also impact the PHA's ability to issue vouchers to families on the waiting list. This part discusses the methodology the PHA will use to determine whether or not the PHA has sufficient funding to issue vouchers, approve moves, and to continue subsidizing all families currently under a HAP contract.

### **16-VIII.B. METHODOLOGY**

#### HACP Policy

The HACP 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 HACP'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 HACP will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority and funding reserves, or if the HACP cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the HACP will be considered to have insufficient funding.

~~The HACP will establish methods to determine whether there is adequate funding to issue vouchers, to approve moves to higher cost units and areas, and to continue subsidizing all current participants. If the total annual HAP needs equal or exceed the annual budget authority, or if the HACP cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, the HACP will be considered to have insufficient funding.~~



## PART IX: VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, AND CONFIDENTIALITY

### 16-IX.A. OVERVIEW

The Violence Against Women Reauthorization Act ~~of 2013~~ (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault, ~~and~~ stalking, and human trafficking who are applying for or receiving assistance under the Housing Choice Voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws take precedence over VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three (3) areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located primarily in the following sections: 3-I.C, “Family Breakup and Remaining Member of Tenant Family”; 3-III.G, “Prohibition against Denial of Assistance to Victims of Domestic Violence, Dating Violence, Sexual Assault and Stalking”; 10-I.A, “Allowable Moves”; 10-I.B, “Restrictions on Moves”; 12-II.E, “Terminations Related to Domestic Violence, Dating Violence, Sexual Assault or Stalking”; and 12-II.F., “Termination Notice.”

### 16-IX.B. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

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

- The term *affiliated individual* means, with respect to a person:
  - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
  - Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *sexual assault* means any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent.
- The term *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.
  - ~~— Fear for the person's individual safety or the safety of others; or~~
  - ~~— Suffer substantial emotional distress.~~
- The term **human trafficking** means a crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:
  - Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a 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. See 22 U.S.C. § 7102(11)(A).
  - Forced labor is 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. See 22 U.S.C. § 7102(11)(B).

## 16-IX.C. NOTIFICATION [24 CFR 5.2005(a)]

### Notification to Public

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

#### HACP Policy

The HACP will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it to include the following:

- A copy of the notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 16-1)
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 16-2)
- A copy of the PHA's emergency transfer plan (Exhibit 16-3)
- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 16-4)

- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2)
- Contact information for local victim advocacy groups or service providers
- A summary of the rights and protections provided by VAWA to Housing Choice Voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (see sample notices in Exhibits 16-1 and 16-2)
- The definitions of *domestic violence*, *dating violence*, *sexual assault*, and *stalking* provided in VAWA (included in Exhibits 16-1 and 16-2)
- An explanation of the documentation that the HACP may require from an individual who claims the protections provided by VAWA (included in Exhibits 16-1 and 16-2)
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternative Documentation
- A statement of the HACP's obligation to keep confidential any information that it receives from a victim unless (a) the HACP has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibits 16-1 and 16-2)
- Contact information for local victim advocacy groups or service providers: The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibits 16-1 and 16-2) Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]

### **Notification to Program Applicants and Participants [24 CFR 5.2005(a)(1)]**

PHAs are required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

### **HACP Policy**

The HACP will provide all applicants with information about VAWA at the time they request an application for housing assistance, as part of the written briefing packet. The HACP will also include information about VAWA in all notices of denial of assistance (see section 3-III.G).

The HACP will provide all participants with information about VAWA at the time of admission (see section 5-I.B.). The HACP will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.

The VAWA information provided to applicants and participants will consist of the notices in Exhibits 16-1 and 16-2.

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a participant following an incident of domestic violence, Notice PIH 2017-08 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

## HACP Policy

Whenever the HACP has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim or by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, the HACP may decide not to send mail regarding VAWA protections to the victim's unit if the HACP believes the perpetrator may have access to the victim's mail, unless requested by the victim.

When discussing VAWA with the victim, the HACP will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

~~PHAs are required to provide to each of its applicants and to each of its tenants the notice of occupancy rights and the certification form as follows:~~

- ~~• A Notice of Occupancy Rights under the Violence Against Women Act, form HUD-5380, as prescribed and in accordance with directions provided by HUD, that explains the VAWA protections, including the right to confidentiality, and any limitations on those protections; and~~
- ~~• A certification form, in a form approved by HUD, to be completed by the victim to document an incident of domestic violence, dating violence, sexual assault, or stalking, and that:~~
  - ~~— States that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking;~~
  - ~~— States that the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection meets the applicable definition for such as described in 16-IX.B.; and~~
  - ~~— Includes the name of the individual who committed the domestic violence, dating violence, sexual assault, or stalking, if the name is known and safe to provide.~~

~~The notice in the preceding paragraph must be provided to an applicant or tenant no later than at each of the following times:~~

- ~~• At the time the applicant is denied assistance or admission~~
- ~~• At the time the individual is provided assistance or admission~~
- ~~• With any notification of termination of assistance; and~~
- ~~• During the twelve (12) month period following December 16, 2016, either during the annual recertification or lease renewal process, whichever is applicable, or, if there will be no recertification or lease renewal for a tenant during the first year after the rule takes effect, through other means.~~

## HACP Policy

~~The HACP will provide all applicants with information about VAWA at the time they request an application for housing assistance, and require that they sign form HUD-5380, *Notice of Occupancy Rights under the Violence Against Women Act* acknowledging receipt.~~

~~The HACP will also include information about VAWA in all notices of denial of assistance (see section 3-III.G). The HACP will provide all participants with information about VAWA at the time of admission (see section 5-I.B) and at annual reexamination up until December 31, 2019. The HACP will also include information about VAWA in notices of termination of assistance, as provided in section 12-II.F.~~

~~The VAWA information provided to applicants and participants will consist of the notice in Exhibit 16-1 and a copy of form HUD-5380, *Notice of Occupancy Rights under the Violence Against Women Act*, and form HUD-5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternative Documentation*.~~

#### **Notification to Owners and Managers ~~via Contract Documents [24 CFR 5.2005(a)(4)]~~**

~~While PHAs are no longer required by regulation to notify owners and managers participating in the HCV program of their rights and obligations under VAWA, the PHA may still choose to inform them.~~

#### **HACP Policy**

~~The HACP will not provide owners and managers with information about their rights and obligations under VAWA other than the standard language in the HAP contract (form HUD-52641-A), Tenancy Addendum, and other standard HCV forms.~~

~~PHAs are required to include a description of specific protections afforded to the victims of domestic violence, dating violence, sexual assault, or stalking in the HUD required lease, lease addendum, or tenancy addendum, as applicable.~~

#### **HACP Policy**

~~The HACP will provide owners and managers with information about their rights and obligations under VAWA when they begin their participation in the HCV program and at least annually thereafter.~~

~~The VAWA information provided to owners will consist of the notice in Exhibit 16-2 and a copy of form HUD-91067, *Violence Against Women and Just Department Reauthorization Act of 2005 Lease Addendum*.~~

### **16-IX.D. DOCUMENTATION [24 CFR 5.2007]**

~~A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, human trafficking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least fourteen (14) business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]~~

~~The individual may satisfy the PHA's request by providing any one of the following three (3) forms of documentation [24 CFR 5.2007(b)]:~~

- ~~• A completed and signed HUD-approved certification form (HUD-5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking*), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim.~~
- ~~• A federal, state, tribal, territorial, or local police report or court record, or an administrative record~~

- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

### **HACP Policy**

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, will specify a deadline of fourteen (14) business days following receipt of the request, will describe the three (3) 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 HACP may, in its discretion, extend the deadline for ten (10) business days. In determining whether to extend the deadline, the HACP will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by the HACP will be in writing.

Once the victim provides documentation, the HACP will acknowledge receipt of the documentation within ten (10) business days.

### **Conflicting Documentation [24 CFR 5.2007(e)]**

In cases where the PHA receives conflicting certification documents (including certification forms from two (2) or more members of a household each claiming to be a victim and naming one (1) or more of the other petitioning household members as the perpetrator), the PHA may ~~require an applicant or tenant to provide acceptable third-party documentation, as described in numbers two (2) through four (4) of the preceding paragraphs within thirty (30) calendar days of the date of the request for third-party documentation. The PHA must honor any court orders issued to protect the victim or to address the distribution of property.~~ determine which is the true victim by requiring each to provide acceptable third-party documentation when submitted documentation contains information that conflicts with existing information already available to the PHA. Individuals have thirty (30) calendar days to return third-party verification to the PHA. If the PHA does not receive third-party documentation, and the PHA will deny or terminate assistance as a result, the PHA must hold separate hearings for the tenants [Notice PIH 2017-08].

The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

### **HACP Policy**

If presented with conflicting certification documents from members of the same household, the HACP will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(e) and by following any HUD guidance on how such determinations should be made.



When requesting third-party documents, the HACP will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given thirty (30) calendar days from the date of the request to provide such documentation.

If the HACP does not receive third-party documentation within the required timeframe (and any extensions) the HACP will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, the HACP will hold separate hearings for the applicants or tenants.

If presented with conflicting certification or other documents from members of the same household, the HACP will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) or (3) and by following any HUD guidance on how such determinations should be made. The HACP will provide an additional thirty (30) days for the applicant or tenant to provide third-party documentation from the date that the request is made.

#### **Discretion to Require No Formal Documentation [24 CFR 5.2007(~~db~~)(3)]**

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b)(~~3~~). HUD recommends documentation in a confidential manner when a verbal statement or other evidence is accepted.

#### **HACP Policy**

If the HACP accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the HACP will document acceptance of the statement or evidence in the individual's file.

#### **Failure to Provide Documentation [24 CFR 5.2007(~~ca~~)(2)]**

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within fourteen (14) business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

#### **16-IX.E. CONFIDENTIALITY [24 CFR 5.2007(~~be~~)(4)]**

All information provided to the PHA regarding domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking including the fact that an individual is a victim of such violence or stalking, must be retained in strict confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

#### **HACP Policy**

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

~~shall not~~

~~(1) Allow any individual administering assistance on behalf of the PHA or any persons within their employ (e.g., contractors) or in the employ of the PHA to have access to confidential information unless explicitly authorized by the PHA for reasons that specifically call for these individuals to have access to this information under applicable federal, State, or local law.~~

~~(2) Enter confidential information into any shared database or disclose such information to any other entity or individual, except to the extent that the disclosure is:~~

~~Requested or consented to in writing by the individual in a time-limited release~~

~~Required for use in an eviction proceeding or hearing regarding termination of assistance~~

~~Otherwise required by applicable law.~~

## **EXHIBIT 16-1: NOTICE OF OCCUPANCY RIGHTS UNDER THE VIOLENCE AGAINST WOMEN ACT (~~FORM HUD-5380 & 5382~~)**

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### **Housing Authority of the City of Pittsburgh (HACP) Notice of Occupancy Rights under the Violence Against Women Act<sup>1</sup>**

#### **To all Tenants and Applicants**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.<sup>2</sup> The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that the Housing Choice Voucher Program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

#### **Protections for Applicants**

If you otherwise qualify for assistance under the Housing Choice Voucher Program, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

#### **Protections for Tenants**

If you are receiving assistance under the Housing Choice Voucher Program, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under the Housing Choice Voucher Program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

#### **Removing the Abuser or Perpetrator from the Household**

The HACP may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

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<sup>1</sup> Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

<sup>2</sup> Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

If the HACP chooses to remove the abuser or perpetrator, the HACP may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, the HACP must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or find alternative housing.

In removing the abuser or perpetrator from the household, the HACP must follow Federal, State, and local eviction procedures. In order to divide a lease, the HACP may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

### **Moving to Another Unit**

Upon your request, the HACP may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, the HACP may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- (1) **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- (2) **You expressly request the emergency transfer.** Your housing provider may choose to require that you submit a form or may accept another written or oral request.
- (3) **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

**OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

The HACP will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

The HACP's emergency transfer plan provides further information on emergency transfers, and the HACP must make a copy of its emergency transfer plan available to you if you ask to see it.

## **Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking**

The HACP can, but is not required to, ask you to provide documentation to “certify” that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from the HACP must be in writing, and the HACP must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. The HACP may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to the HACP as documentation. It is your choice which of the following to submit if the HACP asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by the HACP with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, “professional”) from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that they believe that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that the HACP has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, the HACP does not have to provide you with the protections contained in this notice.

If the HACP receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), the HACP has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, the HACP does not have to provide you with the protections contained in this notice.

### **Confidentiality**

The HACP must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

The HACP must not allow any individual administering assistance or other services on behalf of the HACP (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

The HACP must not enter your information into any shared database or disclose your information to any other entity or individual. The HACP, however, may disclose the information provided if:

- You give written permission to the HACP to release the information on a time limited basis.
- The HACP needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires the HACP or your landlord to release the information.

VAWA does not limit the HACP's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

### **Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated**

You can be evicted, and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, the HACP cannot hold tenants who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted, and your assistance terminated, if the HACP can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- 1) Would occur within an immediate time frame, and
- 2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If the HACP can demonstrate the above, the HACP should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

### **Other Laws**

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

### **Non-Compliance with The Requirements of This Notice**

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with **Fair Housing Partnership of Greater Pittsburgh, Inc., 2840 Liberty Avenue, Suite 205, Pittsburgh, PA 15222, (412) 391-2535, or the HUD Pittsburgh & Buffalo Field Office, 1000 Liberty Ave., Pittsburgh PA, 15222, (412) 644-6428.**

### **For Additional Information**

You may view a copy of HUD's final VAWA rule at: <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.

Additionally, the HACP must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact ~~your Housing Specialist~~ **the Housing Choice Voucher Program Management Team at 412-456-5090.**



For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). **You may also contact the Center for Victims at 412-482-3240, or the Women’s Center & Shelter of Greater Pittsburgh at 412-687-8005.**

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime’s Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact Center for Victims at 412-482-3240, or the Women’s Center & Shelter of Greater Pittsburgh at 412-687-8005.

Victims of stalking seeking help may contact the Center for Victims at 412-482-3240, or the Women’s Center & Shelter of Greater Pittsburgh at 412-687-8005.

Attachment: Certification form HUD-5382

My signature below serves as acknowledgement of receipt and understanding of the entire document, “Notice of Occupancy Rights under the Violence Against Women Act” Form HUD-5380 from the Housing Authority of the City of Pittsburgh.

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Applicant/Participant Signature

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Date

---

HACP Representative Signature

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Date

## EXHIBIT 16-2: CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING AND ALTERNATE DOCUMENTATION (FORM HUD-5382)

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### CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING, AND ALTERNATE DOCUMENTATION

U.S. Department of Housing  
and Urban Development

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

**Use of This Optional Form:** If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

**Submission of Documentation:** The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

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

1. Date the written request is received by victim: \_\_\_\_\_

2. Name of victim: \_\_\_\_\_

3. Your name (if different from victim's): \_\_\_\_\_

4. Name(s) of other family member(s) listed on the lease: \_\_\_\_\_

\_\_\_\_\_

5. Residence of victim: \_\_\_\_\_

6. Name of the accused perpetrator (if known and can be safely disclosed): \_\_\_\_\_

\_\_\_\_\_

7. Relationship of the accused perpetrator to the victim: \_\_\_\_\_

8. Date(s) and times(s) of incident(s) (if known): \_\_\_\_\_

\_\_\_\_\_

10. Location of incident(s): \_\_\_\_\_

In your own words, briefly describe the incident(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_

Signed on (Date) \_\_\_\_\_

**Public Reporting Burden:** The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

## **EXHIBIT 16-3: EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING (HCV VERSION)**

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Attachment: Certification form HUD-5382

Housing Authority of the City of Pittsburgh

### **Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking Housing Choice Voucher Program**

#### **Emergency Transfers**

The HACP is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),<sup>3</sup> the HACP allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.<sup>4</sup> The ability of the HACP to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the HACP has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the federal agency that oversees that the **public housing and Housing Choice Voucher (HCV) programs** are in compliance with VAWA.

#### **Eligibility for Emergency Transfers**

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

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<sup>3</sup>Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

<sup>4</sup>Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

## **Emergency Transfer Request Documentation**

To request an emergency transfer, the tenant shall notify the HACP's management office and submit a written request for a transfer to **any HACP office**. The HACP will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:

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

## **Confidentiality**

The HACP will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the HACP written permission to release the information on a time-limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person or persons that committed an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about the HACP's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

## **Emergency Transfer Timing and Availability**

The HACP cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The HACP will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The HACP may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If the HACP has no safe and available units for which a tenant who needs an emergency transfer is eligible, the HACP will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the HACP will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

## **Emergency Transfers: Housing Choice Voucher (HCV) Program**

Tenant-based assistance: If you are a participant in the tenant-based HCV program and request an emergency transfer as described in this plan, the HACP will assist you to move to a safe unit quickly using your existing voucher assistance. The HACP will make exceptions to program regulations restricting moves as required.

At your request, the HACP will refer you to organizations that may be able to further assist you.

Project-based assistance: If you are assisted under the Project-Based Voucher (PBV) program, you may request an emergency transfer under the following programs for which you are not required to apply:

- Tenant-based voucher, if available
- Project-based assistance in the same project (if a vacant unit is available and you determine that the vacant unit is safe)
- Project-based assistance in another development owned by the PHACP

Emergency transfers under VAWA will take priority over waiting list admissions for these types of assistance.

You may also request an emergency transfer under the following programs for which you are required to apply:

- Public housing program
- PBV assistance in another development not owned by the HACP

Emergency transfers will not take priority over waiting list admissions for these programs. At your request, the HACP will refer you to organizations that may be able to further assist you.

### **Safety and Security of Tenants**

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse, and Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE or visit the online hotline at: <https://ohl.rainn.org/online/>.

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

**Tenants who have been victims of general crime, domestic violence, or sexual assault are encouraged to contact the Center for Victims 24-hour crisis hotline at 1-866-644-2882. Their office is located at 3433 E. Carson Street, Pittsburgh, PA 15203, and types of services can be found at: <https://www.centerforvictims.org/victim-services/>.**



# EXHIBIT 16-4: EMERGENCY TRANSFER REQUEST FOR CERTAIN VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING (FORM HUD-5383)

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

U.S. Department of Housing  
and Urban Development

OMB Approval No. 2577-0286  
Exp. 06/30/2017

**Purpose of Form:** If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

### **The requirements you must meet are:**

**(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

**(2) You expressly request the emergency transfer.** Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

**(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

### **OR**

**You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer.** If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

**Submission of Documentation:** If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

**Confidentiality:** All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER**

**1. Name of victim requesting an emergency transfer:** \_\_\_\_\_

**2. Your name (if different from victim's)** \_\_\_\_\_

**3. Name(s) of other family member(s) listed on the lease:** \_\_\_\_\_

**4. Name(s) of other family member(s) who would transfer with the victim:** \_\_\_\_\_

**5. Address of location from which the victim seeks to transfer:** \_\_\_\_\_

**6. Address or phone number for contacting the victim:** \_\_\_\_\_

**7. Name of the accused perpetrator (if known and can be safely disclosed):** \_\_\_\_\_

**8. Relationship of the accused perpetrator to the victim:** \_\_\_\_\_

**9. Date(s), Time(s) and location(s) of incident(s):** \_\_\_\_\_

**10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If not, fill out question 11.** \_\_\_\_\_

**11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.**

**12. If voluntarily provided, list any third-party documentation you are providing along with this notice:**

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature \_\_\_\_\_ Signed on (Date) \_\_\_\_\_

# CHAPTER 17: PROJECT-BASED VOUCHERS

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## INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the project-based voucher (PBV) program in nine parts:

Part I: General Requirements. This part describes general provisions of the PBV program including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Owner Proposals. This part includes policies related to the submission and selection of owner proposals 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 housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Rehabilitated and Newly Constructed Units. This part describes requirements and policies related to the development and completion of rehabilitated and newly constructed housing units that will be receiving PBV assistance.

Part V: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution, term, and termination of the HAP contract. In addition, it describes how the HAP contract may be amended and identifies provisions that may be added to the HAP contract at the 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 CFR 983.5; FR Notice 1/18/17; Notice PIH 2017-21]

The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to 20 percent of its voucher program budget authority authorized units and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6]. In addition, PBV units replacing public housing units of any Choice Neighborhood Implementation Grant's target public housing do not count toward the 30 percent limitation, even if the PBV units are part of the HUD RAD program. 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)].

#### HACP Policy

Under the Step Up to Market HUD-approved MTW activity, the HACP has authorization to convert more than 20 percent of its tenant-based vouchers to project-based. Typically, the HACP reserves closer to 30 percent of its tenant-based vouchers for PBV conversion to supplement the large need for new affordable housing creation in its jurisdiction. However, this amount is subject to change depending on development and funding needs. HUD allows the HACP to convert a portion of their Housing Choice Voucher assistance from tenant-based vouchers to project-based. Other than the specific program rules detailed below or those required by HUD, project-based vouchers are subject to policies and procedures developed by the Authority under the MTW program. If no MTW policy or procedure exists, then standard Housing Choice Voucher rules and regulations will apply.

PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing [24 CFR 983.52]. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, the PHA is not required to reduce the number of these units if the number 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; Notice PIH 2017-21; FR Notice 1/24/22]

The PHA may project-base an additional 10 percent of its units above the 20 percent program limit. The units may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10 percent cap.

For units under a HAP contract that was first executed on or after April 18, 2017, units qualify under this exception if the units:

- Are specifically made available to house individuals and families that meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care Interim Rule at 24 CFR 578.3.
- Are specifically made available to house families that are comprised of or include a veteran.
- Veteran means an individual who has served in the United States Armed Forces.
- Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR 5.403.
- Are located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

PBV units that house eligible youth receiving FUPY/FYI assistance are also covered by this 10 percent exception authority if the units are under a HAP contract that became effective after December 27, 2020, and if the unit is occupied by an eligible youth receiving FUPY/FYI assistance. FYI TPVs that were awarded under Notice PIH 2019-20 are not part of this exception since PHAs are prohibited from project-basing FYI TPVs. Units added after December 27, 2020, through an amendment of a HAP contract that became effective after December 27, 2020, are eligible for this 10 percent exception authority. In contrast, units added after December 27, 2020, through an amendment of a HAP contract that became effective on or prior to December 27, 2020, are not eligible for this 10 percent exception authority [FR Notice 1/24/22]. See Chapter 19 for policies specific to project-basing FUPY vouchers.

#### **HACP Policy**

The HACP may project-base up to an additional 10 percent of its authorized units, up to 30 percent, in accordance with HUD regulations and requirements.

#### **Units Not Subject to the PBV Program Limitation [FR Notice 1/18/17]**

PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the 20 percent limitation when PBV assistance is attached to them.

In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017.

#### **HACP Policy**

The HACP may project-base units not subject to the 20 percent cap in accordance with HUD regulations and requirements.

### **17-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 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 CFR 983.2.

#### **HACP Policy**

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the HACP policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

### **17-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]**

Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA)[42 U.S.C. 4201-4655] and implementing regulations at 49 CFR part 24.

The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. PHAs may not use voucher program funds to cover relocation costs, except that PHAs may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR 982.155 and other official HUD issuances.

The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of the PHA to ensure the owner complies with these requirements.

## **17-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]**

The PHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR 5.105(a). In addition, the PHA must comply with the PHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

## **PART II: PBV OWNER PROPOSALS**

### **17-II.A. OVERVIEW**

With certain exceptions, the PHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56], and meets the site selection standards [24 CFR 983.57]. The PHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR 983.51 [Notice PIH 2011-54].

~~The PHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals [24 CFR 983.51]. Before selecting a PBV proposal, the PHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing [24 CFR 983.53 and 983.54], complies with the cap on the number of PBV units per project [24 CFR 983.56, FR Notice 11/24/08], and meets the site selection standards [24 CFR 983.57].~~

### **HACP Policy**

When a PBV proposal is part of a Request for Proposal for a Gap Financing project (an MTW local, non-traditional development program), the HACP will award a conditional commitment for competitive proposers to meet timelines for their major funding applications such as Low-Income Housing Tax Credit, contingent upon HUD approval and HACP board approval for all compliance items.



## **17-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 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 (2) methods.

- PHA request for PBV Proposals. The PHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to the PHA request. The PHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites.
- The PHA may select proposals 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 (3) 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; Notice PIH 2017-21; 24 CFR 983.51(b)]**

For certain public housing projects where the PHA has an ownership interest or control, the PHA may attach PBV assistance non-competitively without following one (1) of the two (2) processes above.

This exception applies when the PHA is engaged in an initiative to improve, develop, or replace a public housing property or site. The public housing units may either currently be in the public housing inventory or may have been removed from the public housing inventory within five years of the date on which the PHA entered into the AHAP or HAP.

If the PHA is planning rehabilitation or new construction on the project, a minimum threshold of \$25,000 per unit in hard costs must be expended.

If the PHA plans to replace public housing by attaching PBV assistance to existing housing in which the PHA has an ownership interest or control, then the \$25,000 per unit minimum threshold does not apply as long as the existing housing substantially complies with HQS.

The PHA must include in the administrative plan what work it plans to do on the property or site and how many PBV units will be added to the site.

### **HACP Policy**

The HACP plans to attach PBVs to projects owned by the HACP as described above and will list such work plans in its Moving to Work (MTW) Annual Plan.

## **~~17-II.C. ADVERTISING, SOLICITATION AND SELECTION OF PBV PROPOSALS OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51(b) and (c)]~~**

## Solicitation and Selection of PBV Proposals [24 CFR 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.

## HACP Policy

### HACP Request for Proposals for Rehabilitated and Newly Constructed Units

The HACP will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following manner:

When a competitive process is used to select units that will be awarded project-based assistance, the HACP or the Agency that the HACP has partnered with will advertise the availability of any project-based assistance allocations to owners, developers, and the general public. The advertisement will state the number of vouchers available to be project-based, the types of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

At a minimum, the availability of project-based assistance will be advertised once a week for at least two (2) weeks in a local newspaper of general circulation. In addition, the HACP will post the RFP and proposal submission and rating and ranking procedures on its website.

The HACP will publish its advertisement in all available newspapers and trade journals for at least one (1) day per week for three (3) consecutive weeks. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the HACP is making available. Proposals will be due in the HACP office or by close of business thirty (30) calendar days from the date of the last publication.

In order for the proposal to be considered, the owner must submit the proposal to the PHA-HACP by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

The PHA-HACP will rate and rank proposals for using all or some of the following criteria:

Owner experience and capability to build or rehabilitate housing as identified in the RFP;

Extent to which the project furthers the PHA-HACP goal of deconcentrating poverty and expanding housing and economic opportunities;

If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and

In order to promote partially assisted projects, projects with less than twenty-five (25) percent of the units assisted will be rated higher than projects where twenty-five (25) percent of the units or more will be assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, the PHA-HACP will rate partially assisted projects on the percentage of units assisted. Projects with the lowest percentage of assisted units will receive the highest score.

~~Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;~~

~~Extent to which the project furthers the PHA goal of de-concentrating poverty and expanding housing and economic opportunities;~~

~~If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property; and~~

~~Extent to which units are occupied by families that are eligible to participate in the PBV program.~~

~~The PHA may submit a proposal for project-based housing that is owned or controlled by the PHA. If the proposal for PHA-owned housing is selected, the PHA will use [insert name of the entity] to review the PHA selection process. The PHA will obtain HUD approval of [insert name of entity] prior to selecting the proposal for PHA-owned housing. The PHA may only compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA and independent entity may not charge the family any fee for the appraisal or the services provided by the independent entity.~~

#### HACP Request for Proposals for Existing Housing Units

The HACP will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in the following manner:

When a competitive process is used to select units that will be awarded project-based assistance, the HACP or the Agency that the HACP has partnered with will advertise the availability of any project-based assistance allocations to owners, developers, and the general public. The advertisement will state the number of vouchers available to be project-based, the types of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition, the HACP will post the notice inviting such proposal submission and the rating and ranking procedures on its website.

The HACP will publish its advertisement in all available newspapers and trade journals for at least one (1) day per week for three (3) consecutive weeks. The advertisement will specify the number of units the PHA estimates that it will be able to assist under the funding the HACP is making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;

Extent to which the project furthers the HACP'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.

#### HACP Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

The HACP will accept proposals for PBV assistance from owners that were competitively selected under another federal, state or local housing assistance program, including projects that were competitively awarded Low-Income Housing Tax Credits on an ongoing basis.

The HACP may periodically advertise that it is accepting proposals, in all applicable newspapers and trade journals.

The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

In addition to, or in place of advertising, the HACP may also directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

Proposals will be reviewed on a first-come first-served basis. The HACP will evaluate each proposal on its merits using the following factors:

Extent to which the project furthers the PHA goal of deconcentrating poverty and expanding housing and economic opportunities; and

Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, other development activities in a HUD-designated Enterprise Zone, Economic Community, Choice Neighborhood, or Renewal Community.

#### **PHA-Owned Units [24 CFR 983.51(e), 983.59, FR Notice 1/18/17, and Notice PIH 2017-21]**

A PHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that the PHA-owned units were appropriately selected based on the selection procedures specified in the PHA administrative plan. This also applies to noncompetitive selections. If the PHA selects a proposal for housing that is owned or controlled by the PHA, the PHA must identify the entity that will review the PHA proposal selection process and perform specific functions with respect to rent determinations, the term of the HAP contract, and inspections.

In the case of PHA-owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by the PHA and a HUD-approved independent entity. In addition, an independent entity must determine the initial rent to owner, the redetermined rent to owner, and reasonable rent. Housing quality standards inspections must also be conducted by an independent entity.

The independent entity that performs these program services may be the unit of general local government for 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.

#### **HACP Policy**

Pending Hud's approval of the FY 2024 MTW Annual Plan, the HACP can utilize its MTW flexibility to conduct and administer the PBV management program for PBV units owned by the HACP. The HACP will utilize this MTW flexibility in lieu of entering into contracts with an Independent Entity for these PBV management functions.

#### **PHA Notice of Owner Selection [24 CFR 983.51(d)]**

The PHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and actually operated to provide broad public notice.

## HACP Policy

~~Within ten (10) business days of the HACP making the selection.~~ After making the selection, the HACP will notify the selected owner in writing of the owner's selection for the PBV program. The HACP will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

In addition, the HACP will publish its notice for selection of PBV proposals for two (2) consecutive days in the same newspapers and trade journals the HACP used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. The HACP will also post the notice of owner selection on its electronic website.

The HACP will make available to any interested party its rating and ranking sheets and documents that identify the HACP basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one (1) month after publication of the notice of owner selection. The HACP will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

The HACP will make these documents available for review at the HACP during normal business hours. The cost for reproduction of allowable documents will be \$.25 per page.

## **17-II.~~EC~~. HOUSING TYPE [24 CFR 983.52]**

The PHA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of PHA selection, the units substantially comply with HQS. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing. Units that were newly constructed or rehabilitated in violation of the program requirements after the HACP selected those units as part of the PBV new construction or rehabilitation project 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.

## **17-II.F. UNIT SELECTION POLICY**

### HACP Policy

~~In order to both maximize the impact of its project-based vouchers and to minimize the number of application processes developers face, the HACP may award project-based assistance for housing assisted under a federal, state, or local government housing assistance, community development, or supportive services program that requires competitive selection of proposals, 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 HACP may utilize project-based Housing Choice Voucher assistance at properties owned directly or indirectly by the HACP, or any affiliate of HACP, subject to HUD's requirements regarding subsidy layering, without engaging in a competitive process.~~

~~The HACP will not enter an Agreement or 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.~~

## **17-II. ~~GD~~. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS**

### **Ineligible Housing Types [24 CFR 983.53]**

The PHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; 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 CFR 983.54]**

A PHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

- A public housing unit;
- A unit subsidized with any other form of Section 8 assistance;
- A unit subsidized with any governmental rent subsidy;
- A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;
- A unit subsidized with Section 236 rental assistance payments (except that a PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;
- Section 811 project-based supportive housing for persons with disabilities;
- Section 202 supportive housing for the elderly;
- A Section 101 rent supplement project;
- A unit subsidized with any form of tenant-based rental assistance;
- A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or the PHA in accordance with HUD requirements.



## **17-II.~~HE~~. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55, Notice PIH 2013-11~~and~~, FR Notice 2/28/20, and Notice PIH 2023-15]**

The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

HUD requires new construction and rehabilitation housing that will include forms of governmental assistance other than PBVs to undergo a subsidy layering review (SLR) prior to entering into an Agreement to Enter into Housing Assistance Payments Contract (AHAP). Subsidy layering requirements do not apply to existing housing, when or for projects already subject to a PBV HAP contract, even if the project is recapitalized with outside sources of funding.

When a PHA selects a new construction or rehabilitation project, the PHA must require information regarding all HUD and/or other federal, state, or local governmental assistance to be disclosed by the project owner using Form HUD-2880. Appendix A of FR Notice 23/2823/20-23 contains a list of all required documentation.

Either HUD or a HUD-approved housing credit agency (HCA) in the PHA's jurisdiction performs the subsidy layering review. The PHA must request an SLR through their local HUD Field Office or, if eligible, through a participating HCA. If the PHA requests that an HCA perform a SLR, the PHA must inform the HUD Field Office of the decision.

If the SLR request is submitted to an approved HCA, and the proposed project-based voucher assistance meets HUD subsidy layering requirements, the HCA must submit a certification to HUD and notify the PHA. The PHA may proceed to execute an AHAP at that time if the environmental approval is received.

The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for the acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

## **17-II.~~HE~~. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT**

### **Twenty-Five (25) Percent per Project Cap [24 CFR 983.56(a), FR Notice 14/2418/0817, and Notice PIH 2017-21]**

In general, the PHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of twenty-five (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; FR Notice 1/24/22]**

As of April 18, 2017, units are not counted against the 25 percent or twenty-five (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

- o If the project is located in a census tract with a poverty rate of twenty (20) percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of twenty-five (25) or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that service disabled families and modified the exception for supportive services.

Under the Fostering Stable Housing Opportunities (FSHO) amendments, units exclusively made available to you receiving FUPY/FYI assistance may be excepted from the project cap for HAP contracts first effective after December 27, 2020. For more information on excepted units for FUPY, see Chapter 19.

Projects where these caps were implemented prior to HOTMA (HAP contracts executed prior to April 18, 2017) or FSHO (contracts in effect on or prior to December 27, 2020) may continue to use the former exceptions and may renew their HAP contract under the old requirements, unless the PHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

### **Supportive Services**

PHAs must include in the PHA administrative plan the type of services offered to families for a project to qualify for the exception and the extent to which such services will be provided. As of April 18, 2017, the project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit, although the family must be eligible to receive the supportive services. It is not necessary that the services be provided at or by the project, but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. A PHA may not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered.

### **HACP Policy**

The HACP must honor HUD regulations to serve more PBV units beyond the elderly-only excepted units to include lower poverty areas and supportive services.

### **Projects not Subject to a Project Cap [FR Notice 1/18/17; Notice PIH 2017-21]**

PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, 100 percent of the units in these projects may receive PBV assistance.

### **HACP Policy**

The HACP does not have any PBV units that are subject to the per project cap exception.

### **HACP Policy**

The HACP will allocate Housing Choice Vouchers to project-based units in accordance to limits as identified in 24 CFR 983.56 and the Federal Register Notice of November 24, 2008. Specifically, the following limitations apply:

- ~~1. Except as provided in item 2. below, the HACP will not provide PBV assistance to more than twenty-five (25) percent of the dwelling units (assisted or unassisted) in a project. For purposes of this part, a project is defined to mean a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land.~~
- ~~2. Exceptions to the twenty-five (25) percent per project cap. Units are not counted against the twenty-five (25) percent per project cap in the following situations:~~
  - ~~a. Units in a single-family building. For the purposes of this part, a single-family building is a building with no more than four (4) units.~~
  - ~~b. “Excepted Units” made available specifically for qualifying elderly or disabled families.~~
  - ~~c. “Excepted Units” made available specifically for qualifying families receiving supportive services as defined below.~~

~~In order to qualify for an Excepted Unit for families receiving supportive services, at least one member of the family must be receiving at least one of the following qualifying services:~~

- ~~A. Self-Sufficiency Program—a structured program designed to assist a family or family members in identifying and completing specific goals in order to achieve employment and self-sufficiency. Qualifying programs must include a contract of participation signed by the participant and the sponsoring entity, individual service plans identifying short and long term goals, case management and regular monitoring of participant performance, and at least quarterly reporting of participant progress. Contracts of participation cannot exceed seven (7) years.~~
- ~~B. Other specific services targeting specific populations as proposed by project operators, approved by the HACP, that are in the best interests of the HACP and project residents, and comply with 24 CFR 983.56 (b).~~

~~Property managers shall be responsible to ensure that families qualifying for “Excepted Units” for families receiving supportive services maintain compliance with approved programs, and the HACP will audit the property managers’ records to confirm compliance monitoring. All such families must sign a statement of family responsibility that contains all of the family obligations including the family’s participation in a service program under this section. Failure by the family without good cause to fulfill its service obligation will require the HACP to terminate assistance and will allow the property manager to terminate the lease. The assistance will continue to be available for the unit as an Excepted Unit as long as the unit is made available to another qualifying family.~~

~~Services do not have to be provided on-site if they are approved services as described above.~~

~~If the family completes its Self-Sufficiency Contract or other Supportive Services requirements (for example, youth participating in academic support programs successfully complete their programs and graduate) the unit continues to count as an excepted unit as long as the family remains in the unit.~~

### **Promoting Partially Assisted Buildings [24 CFR 983.56(c)]**

A PHA may establish local requirements designed to promote PBV assistance in partially assisted buildings. A *partially assisted building* is a building in which there are fewer units covered by a HAP contract than residential units [24 CFR 983.3].

A PHA may establish a per-building cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily building containing excepted units or in a single-family building. A PHA may also determine not to provide PBV assistance for excepted units, or the PHA may establish a per-building cap of less than twenty-five (25) units or 25 percent of units.

## HACP Policy

The HACP must honor HUD regulations to serve more PBV units beyond the elderly-only excepted units to include lower poverty areas and supportive services.

## **17-II.JG. SITE SELECTION STANDARDS**

### **Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]**

The PHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless the PHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with the PHA Plan under 24 CFR 903 and the PHA administrative plan.

In addition, prior to selecting a proposal, the PHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR 982.401(l).

## HACP Policy

~~Site and Neighborhood Standards: The HACP will comply with the Fair Housing Act and Title VI of the Civil Rights Act of 1964, and implementing regulations thereto, in determining the location of newly constructed or substantially rehabilitated unit-based housing assistance. The HACP shall certify to HUD that HUD site and neighborhood selection requirements have been met; provided, however, that in lieu of the Site and Neighborhood Standards currently set forth in 24 CFR Section 941.202(b)-(d) and in 24 CFR Section 983.6~~It is the HACP goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal, the HACP will limit approval of sites for PBV housing in census tracts that have poverty concentration of 20 percent or less.

However, the HACP will grant exceptions to the 20 percent standard where the HACP 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:~~HACP will comply with the following requirements:~~

A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, Choice Neighborhood, or Renewal Community;

A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE IV 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 poverty rate within the past five (5) years;  
or

A census tract where there are meaningful opportunities for educational and economic advancement.

- ~~a. Units may be located in the HACP's jurisdiction, including within, but not limited to, the following types of urban areas: (i) an area of revitalization that has been designated as such by the City of Pittsburgh, including Redevelopment Areas and Enhanced Enterprise Communities, (ii) an area where public housing units were previously constructed and were demolished, (iii) a racially or economically impacted area where the assisted units are part of an HACP strategy to preserve existing affordable housing, (iv) an area where the Authority is undertaking a HOPE VI or other HUD-funded, master-planned development, (v) an area where a needs analysis indicates that subsidized housing represents a low percentage of the total number of housing units, or, (vi) an area with a low concentration of public housing units where existing public housing units are being relocated.~~
- ~~b. Conduct a housing needs analysis indicating that there is a real need for the housing in the area; and~~

When project-based assistance will be used to develop or substantially rehabilitate six or more public housing units, the HACP will: (i) consult with public housing residents through appropriate resident organizations and representative community groups in the vicinity of the subject property during the planning; (ii) advise current residents of the subject properties ("Residents") and public housing residents, by letter to resident organizations and by public meeting, of the HACP's revitalization plan; and (iii) certify to HUD in its MTW Annual Report that the comments from residents, public housing residents and representative community groups have been considered in the revitalization plan. Documentation evidencing that the HACP has met the stated requirements will be maintained at the housing authority and submitted to HUD in its MTW Annual Report.

#### **Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]**

The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;

- Have adequate utilities and streets available to service the site;
- Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

#### **New Construction Site and Neighborhood Standards [24 CFR 983.57(e)]**

In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;

- The site must have adequate utilities and streets available to service the site;

- The site must not be located in an area of minority concentration unless the PHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;
- The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.
- The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;
- The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;
- The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and
- Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

#### **17-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]**

The PHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The PHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR 58.5.

The PHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and the PHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

The PHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. The PHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.



## PART III: DWELLING UNITS

### 17-III.A. OVERVIEW

This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

### 17-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]

The housing quality standards (HQS) for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 does not apply to the PBV program.

#### HACP Policy

The HACP will use its standard HQS protocol to inspect and approve project-based units; except in the following cases:

Per the HUD-approved Preferred Owners Program MTW activity, for owners participating in the Preferred Owners Program, the HACP will accept the City of Pittsburgh's Certificate of Occupancy for a new construction unit in lieu of the pre-HAP contract HQS inspection, if the unit is occupied within sixty (60) days of the date listed on the Certificate of Occupancy.

An independent inspector will be used when HACP is the owner of the unit.

The HACP will conduct special monitoring HQS inspections, as needed and in compliance with the Lead Safe Housing Rule (LSHR), when a PBV unit has been verified of an Elevated Blood Lead Level (EBLL) case.

#### **Lead-based Paint [24 CFR 983.101(c), ~~69 Federal Register 34262-34276, & PIH Notice 2017-13~~]**

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR Part 35, Subparts A, B, H, and R, and 40 CFR 745.227, apply to the PBV program.

~~PBV units, while funded through the Tenant-Based Rental Assistance/HCV program appropriation, are regulated under the Lead Safe Housing Rule (LSHR) as project-based assistance under 24 CFR Part 35, Subpart H. This program clarification was issued in a 2004 amendment to the LSHR. Under Subpart H, owners of target housing properties receiving more than five thousand dollars (\$5,000) annually per unit in project-based assistance are required to ensure that target housing receives a lead risk assessment by a certified risk assessor, regardless of whether there is a child under age 6 in residence, and that occupants are notified of the results of the risk assessment.~~

~~PBV owners must ensure that lead-based paint hazards identified by the risk assessment receive interim controls by a certified renovation or abatement firm, that clearance by a certified risk assessor is passed before re-occupancy occurs, and that assisted occupants are notified of the results of the hazard reduction activity. Owners must monitor and maintain any remaining lead-based paint and the hazard controls, with annual visual assessments and a reevaluation with dust testing every two years by a certified risk assessor. Owners in the PBV program are also responsible for complying with notification and response steps for a child with an EBLL under section 35.730.~~

~~PHA responsibilities include monitoring the owner's compliance with LSHR and the HAP contract, ensuring that the owner completes and clears control of lead-based paint hazards, and ongoing monitoring (including periodic reevaluation and response if PBV development is >\$5,000/unit/year.~~

#### **HACP Policy**

~~The HACP will work with the PBV development owner as necessary, and conduct special monitoring HQS inspections, as needed and in compliance with the Lead Safe Housing Rule (LSHR) when a PBV unit has been verified of an Elevated Blood Lead Level (EBLL) case.~~

### **17-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES**

The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

### **17-III.D. INSPECTING UNITS**

#### **Pre-selection Inspection [24 CFR 983.103(a)]**

The PHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, the PHA must inspect all the units before the proposal selection date, and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, the PHA may not execute the HAP contract until the units fully comply with HQS.

#### **Pre-HAP Contract Inspections [24 CFR 983.103(b), FR Notice 1/18/17, and Notice PIH 2017-20 as amended by MTW]**

The PHA must inspect each contract unit before execution of the HAP contract. ~~The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions, or if the unit passed an alternative inspection.~~

~~**The PHA may not enter into a HAP contract covering a unit until the unit fully complies with HQS.**~~

## HACP Policy

For owners in the Preferred Owners Program, the HACP will accept the City of Pittsburgh's Certificate of Occupancy for a new unit in lieu of the pre-HAP contract HQS inspection, if the unit is occupied within sixty (60) days of the date listed on the Certificate of Occupancy.

### **Turnover Inspections [24 CFR 983.103(c)]**

Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

### **Biennial/Annual Inspections [24 CFR 983.103(d), FR Notice 6/25/14]**

At least once every twenty-four (24) months during the term of the HAP contract, the PHA must inspect a random sample consisting of at least 20 percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement. The PHA also has the option in certain mixed finance properties to rely on alternative inspections conducted at least triennially. The PHA may also use the procedures applicable to HCV units in 24 CFR 982.406.

If more than twenty (20) percent of the biennial/annual sample of inspected contract units in a building fails the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.

~~At least biennially during the term of the HAP contract, the PHA must inspect a random sample, consisting of at least twenty (20) percent of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this biennially inspection requirement.~~

## HACP Policy

The HACP will ~~generally conduct annual HQS inspections, and barring any unforeseen circumstances, at minimal, conduct biennial HQS inspections during the term of the assisted tenancy~~ 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 HQS. The HACP may, at its sole discretion, inspect more than 20 percent of the contract units in each building if the previously established inspection history for a development shows a repeated record of final fails.

If more than twenty (20) percent of the biennial/annual sample of inspected contract units in a building fails the initial inspection, the HACP will reinspect 100 percent of the contract units in the building.

Owners participating in the HACP's Preferred Owners Program ~~who have passed annual inspection on the first inspection for the past three (3) consecutive years~~ will be moved to biennial inspections. If a future inspection results in a fail, the owner will be removed from the Preferred Owners Program and will return to an annual inspection schedule.

~~The HACP also conducts interim and quality control inspections as scheduled during the term of the tenancy and these inspections would not count towards the total number of passes required to move Preferred Owners to the biennial schedule.~~

### **Other Inspections [24 CFR 983.103(e)]**

The PHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

### **Inspecting PHA-Owned Units [24 CFR 983.103(f)]**

In the case of PHA-owned units, the inspections must be performed by an independent agency designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

## **PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS**

### **17-IV.A. OVERVIEW [24 CFR 983.151]**

There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

### **17-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT**

In order to offer PBV assistance in rehabilitated or newly constructed units, the PHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD [24 CFR 983.152(~~ab~~)]. The PHA may not enter into an Agreement if commencement of construction or rehabilitation has commenced after proposal submission [24 CFR 983.152(c)]. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and the PHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, the PHA will enter into a HAP contract with the owner for the contract units [24 CFR 983.152(~~ba~~)].

### **Content of the Agreement [24 CFR 983.152(~~ed~~)]**

At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

- Site and the location of the contract units;
- Number of contract units by area (size) and number of bedrooms and bathrooms;
- Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;

- Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;
- An indication of whether or not the design and construction requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;
- Estimated initial rents to owner for the contract units;
- Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by the PHA, specifications and plans. For new construction units, the description must include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

#### **Execution of the Agreement [24 CFR 983.153, ~~FR Notice 11/24/08~~]**

The Agreement must be executed promptly after PHA notice of proposal selection to the selected owner. 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.

~~The Agreement must be executed promptly after PHA notice of proposal selection to the selected owner. Generally, the PHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, the PHA may not enter into the Agreement until the environmental review is completed and the PHA has received environmental approval. However, the PHA does not need to conduct a subsidy layering review in the case of a HAP contract for an existing structure or if the applicable state or local agency has conducted such a review.~~

~~Similarly, environmental reviews are not required for existing structures unless otherwise required by law or regulation.~~

#### **HACP Policy**

The HACP will enter into the Agreement with the owner after receiving both environmental approval and notice that subsidy layering requirements have been met, and before construction or rehabilitation work is started. Per HACP's MTW flexibility approved by HUD, the owner/developer may commence site work prior to executing the Agreement to Enter Into a Housing Assistance Payment Contract at their own risk.

### **17-IV.C. CONDUCT OF DEVELOPMENT WORK**

#### **Labor Standards [24 CFR 983.154(b)]**

If an Agreement covers the development of nine (9) or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. The PHA must monitor compliance with labor standards.

#### **Equal Opportunity [24 CFR 983.154(e)]**

~~The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.~~

#### **Owner Disclosure [24 CFR 983.154(d) and (e)]**

The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

### **17-IV.D. COMPLETION OF HOUSING**

The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

#### **Evidence of Completion [24 CFR 983.155(b)]**

At a minimum, the owner must submit the following evidence of completion to the PHA in the form and manner required by the PHA:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

At the PHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

#### **HACP Policy**

For owners in the Preferred Owner's Program, the HACP will request a copy of the City of Pittsburgh's Certificate of Occupancy. The HACP 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 HACP will specify any additional documentation requirements in the Agreement to enter into HAP contract.

#### **PHA Acceptance of Completed Units [24 CFR 983.156, ~~as amended by MTW~~]**

Upon notice from the owner that the housing is completed, the PHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. The PHA must also determine if the owner has submitted all required evidence of completion.



If the work has not been completed in accordance with the Agreement, the PHA must not enter into the HAP contract.

If the PHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the PHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

### HACP Policy

For existing housing, the HAP contract will be executed within ten (10) business days of the HACP determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within ten (10) business days of the HACP determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

~~If the work has not been completed in accordance with the Agreement, the HACP must not enter into the HAP contract.~~

~~If the HACP determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, the HACP 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 CFR 983.202(a)].

~~The PHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. The HAP contract must be in the form required by HUD [24 CFR 983.202].~~

### **17-V.B. HAP CONTRACT REQUIREMENTS**

#### **Contract Information [24 CFR 983.203, ~~FR Notice H/24/08~~]**

The HAP contract must specify the following information:

The total number of contract units by number of bedrooms;

- The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;
- The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;

- Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;
- Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;
- Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;
- The HAP contract term;
- The number of units in any project that will exceed the 25 percent per project cap, which will be set-aside for occupancy by qualifying families (and Excepted Units); and
- The initial rent to owner for the first twelve (12) months of the HAP contract term.

### **Execution of the HAP Contract [24 CFR 983.204, as amended by MTW]**

The PHA may not enter into a HAP contract until each contract unit has been inspected and the PHA has determined that the unit complies with the Housing Quality Standards (HQS), unless the PHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions. For existing housing, the HAP contract must be executed promptly after the PHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after the PHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter into HAP, and the owner furnishes all required evidence of completion.

### **HACP Policy**

For existing housing, the HAP contract will be executed within ten (10) business days of the HACP determining that all units pass HQS.

For rehabilitated or newly constructed housing, the HAP contract will be executed within ten (10) business days of the HACP determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS or the City of Pittsburgh's Certificate of Occupancy for Preferred Owners is presented to the HACP showing that the units have been occupied within sixty (60) days from the date of the Certificate, and the owner has submitted all required evidence of completion. Evidence of completion for designated accessible units must include an Accessibility Certification from the HACP's third-party certifier before the HAP contract can be executed.

### **Term of HAP Contract [24 CFR 983.205, FR Notice 14/2418/0817, and Notice PIH 2017-21]**

The PHA may enter into a HAP contract with an owner for an initial term of no less than one (1) year and no more than twenty (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 (1) year, nor more than twenty (20) years. In the case of PHA-owned units, the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].

~~The PHA may enter into a HAP contract with an owner for an initial term of no less than one (1) year and no more than fifteen (15) years.~~

### **HACP Policy**

~~Project-based HAP contracts will normally be executed for ten (10) or fifteen (15) year terms~~The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

~~The HACP will consider shorter or longer terms on a case-by-case basis if a developer or owner requests such. Future HAP funding renewals and payments are subject to HUD appropriations and funding ability. HAP contracts may be extended upon their expiration for such period that the Authority and the owner agree to and which the HACP determines will expand housing opportunities and extend long-term housing affordability.~~

~~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 twenty (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 twenty (20) years. A PHA may provide for multiple extensions; however, in no circumstances may such extensions exceed twenty (20) years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than twenty-four (24) months prior to the expiration of the previous extension contract the PHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. In the case of PHA-owned units, any extension of the term of the HAP contract must be agreed upon by the PHA and the independent entity approved by HUD [24 CFR 983.59(b)(2)].~~

### HACP Policy

When determining whether to extend an expiring PBV contract, the HACP will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority; The condition of the contract units;
- The owner's record of compliance with obligations under the HAP contract and lease(s);
- Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

### *Termination by PHA [24 CFR 983.205(c) and FR Notice 1/18/17]*

The HAP contract must provide that the term of 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 CFR 983.205(d)]***

If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to the PHA. In this case, families living in the contract units must be offered tenant-based assistance.

### **Statutory Notice Requirements: Contract Termination or Expiration [24 CFR 983.206, FR Notice 1/18/17, and Notice PIH 2017-21]**

Not less than one (1) 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 (1) year advance notice under such terms as HUD may require. If a project is under HUD Use Agreement or restrictive covenants (collectively, HUD Affordability Restrictions), the project's owner must comply with the HUD Affordability Restrictions regardless of the termination of the HAP contract.

Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner's required notice period ends. The PHA must provide the family with a voucher and the family must also be given the option by the PHA and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to the PHA HCV tenant-based program and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family's adjusted monthly income.

### **Remedies for HQS Violations [24 CFR 983.207(b)]**

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the PHA determines that a contract does not comply with HQS, the 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.

### **HACP Policy**

The HACP will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8-II.G., Enforcing Owner Compliance.

## 17-V.C. AMENDMENTS TO THE HAP CONTRACT

### Substitution of Contract Units [24 CFR 983.206~~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 building for a previously covered contract unit. Before any such substitution can take place, the PHA must inspect the proposed unit and determine the reasonable rent for the unit.

### Addition of Contract Units [~~24 CFR 983.206(b)~~FR Notice 1/18/17 and Notice PIH 2017-21]

The PHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, the PHA must submit to the local field office information outlined in FR Notice 1/18/17. The PHA must also detail in the administrative plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

### HACP Policy

The HACP will add units to the contract on a case-by-case basis to ensure the availability of affordable housing as long as the addition of units does not exceed allowable project caps.

### HACP Policy

~~The HACP will consider adding contract units to the HAP contract when the PHA determines that additional housing is needed to serve eligible low-income families. Circumstances may include, but are not limited to:~~

- ~~• The local housing inventory is reduced due to a disaster (either due to loss of housing units, or an influx of displaced families); and~~
- ~~• Voucher holders are having difficulty finding units that meet program requirements.~~

### ~~Reduction in the Contract number of Project-Based Units~~

~~Project-based units that are not rented by an eligible family within one hundred (120) days of becoming vacant will be terminated from the project-based assistance contract. Appeals will be allowed, but will be granted only in extraordinary circumstances. A unit that has consistently failed HQS inspections may also be terminated from the project-based assistance contract.~~

### ~~Vacancy Loss~~

~~HACP will make vacancy loss payments to owners for up to 60 days after a unit becomes vacant. Vacancy loss payments will be made in an amount equal to HACP's HAP for the family that last occupied that unit. The owner is not eligible to receive any vacancy loss payments beyond 60 days. The owner will only receive the vacancy loss payment if the vacancy is not the owner's fault (e.g., tenant-caused HQS violations) and the owner has taken every action to minimize the likelihood and length of any vacancy.~~

#### **17-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES [24 CFR 983.2076~~(b)~~(e) and 983.302(e)]**

The HAP contract year is the period of twelve (12) calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

#### **17-V.E. OWNER RESPONSIBILITIES UNDER THE HAP [24 CFR 983.209~~2~~10]**

When the owner executes the HAP contract ~~s/he~~they ~~certifies~~certify that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit; and
- The family does not own or have any interest in the contract unit.

Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.



## 17-V.F. ADDITIONAL HAP REQUIREMENTS

### Housing Quality and Design Requirements [24 CFR 983.101(e) and 983.207(a)]

The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with the PHA and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the building as established by the owner.

The PHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the Agreement to enter into a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

### HACP Policy

The HACP will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. The HACP will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter into HAP contract, and the HAP contract.

### Vacancy Payments [24 CFR 983.352(b)]

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two (2) 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).

### HACP Policy

The HACP will make vacancy loss payments to owners for up to sixty (60) days after a unit becomes vacant only if the HAP contract with the owner contains a vacancy loss clause. The PBV owner must request the vacancy loss payment(s) in writing and said request must be received by the HACP within six (6) months of the date that the previous tenant vacated the unit.

Vacancy loss payments will be made in an amount equal to the HACP's HAP for the family that last occupied that unit. The owner is not eligible to receive any vacancy loss payments beyond sixty (60) days. The owner will only receive the vacancy loss payment if the vacancy is not the owner's fault (e.g., tenant-caused HQS violations) and the owner has taken every action to minimize the likelihood and length of any vacancy.

## PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

### 17-VI.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

## 17-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

The PHA may select families for the PBV program from those who are participants in the PHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, meet asset limitation requirements, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

### HACP Policy

~~Project-based voucher holders must come from the HACP HCV waiting list. The HACP may create separate project-based waiting lists based upon development. In the event that the HACP exhausts its waiting lists, families may be referred from the development to the HACP for the purpose of determining eligibility. All families selected will meet the HACP's screening criteria (e.g., income, criminal background, etc.) prior to receiving a project-based voucher. The HACP will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 3.~~

### **In-Place Families [24 CFR 983.251(b)]**

An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by the PHA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on the PHA's waiting list. Once the family's continued eligibility is determined (the PHA may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family must be given an absolute selection preference and the PHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

### **~~Tenant Mobility and Portability~~**

~~Housing Choice Voucher recipients who have resided in a project-based unit for at least twelve (12) months may move with continued assistance (they will receive a tenant-based voucher) subject to the same rules as any other tenant-based Housing Choice Voucher participant family. If the family wishes to move, but no voucher is available, then the family will receive the next available voucher (ahead of families on the wait list).~~

## **17-VI.C. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c)]**

The PHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and PBV assistance. The PHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by the PHA. If the PHA chooses to offer a separate waiting list for PBV assistance, the PHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

If a PHA decides to establish a separate PBV waiting list, the PHA may use a single waiting list for the PHA's whole PBV program, or it may establish separate waiting lists for PBV units in particular projects or buildings or for sets of such units.

### **HACP Policy**

The HACP will establish and manage separate waiting lists for individual projects or buildings that are receiving PBV assistance.

## **17-VI.D. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]**

Applicants who will occupy units with PBV assistance must be selected from the PHA's waiting list. 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.

### **Income Targeting [24 CFR 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 CFR 983.251(c)(7)]**

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

### **Preferences [24 CFR 983.251(d), FR Notice 14/2418/0817]**

The PHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program as a whole, or for occupancy of particular PBV developments or units. The PHA must provide an absolute selection preference for eligible in-place families as described in Section 17-VI.B. above.

The PHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, provided that preference is consistent with the PHA plan. The PHA may not, however, grant a preference to a person with a specific disability [FR Notice 1/18/17].

In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.

If the PHA has projects with "excepted units" for elderly families or supportive services, the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b); FR Notice 1/18/17].

## **HACP Policy**

The HACP will provide a selection preference when required by the regulation (e.g., eligible in-place families, elderly families or units with supportive services, or mobility impaired persons for accessible units). The HACP will not offer any additional preferences for the PBV program or for particular PBV projects or units. The HACP may offer any additional preferences for particular PBV projects or units on a case-by-case basis per the owner/developer's proposal for additional tenant selection criteria based on the merits of other critical funding sources' requirements.

~~Although the PHA is prohibited from granting preferences to persons with a specific disability, the PHA may give preference to disabled families who need services offered at a particular project or site if the preference is limited to families (including individuals):~~

- ~~• With disabilities that significantly interfere with their ability to obtain and maintain themselves in housing;~~
- ~~• Who, without appropriate supportive services, will not be able to obtain or maintain themselves in housing; and~~
- ~~• For whom such services cannot be provided in a non-segregated setting.~~

~~In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the particular services offered as a condition of occupancy.~~

~~If the PHA has projects with more than twenty-five (25) percent of the units receiving project-based assistance because those projects include "excepted units" (units specifically made available for elderly or disabled families, or families receiving supportive services), the PHA must give preference to such families when referring families to these units [24 CFR 983.261(b)].~~

## **17-VI.E. OFFER OF PBV ASSISTANCE**

### **Refusal of Offer [24 CFR 983.251(e)(3)]**

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

Refuse to list the applicant on the waiting list for tenant-based voucher assistance;

- Deny any admission preference for which the applicant qualifies;
- Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy;
- Remove the applicant from the tenant-based voucher waiting list.

### **Disapproval by Landlord [24 CFR 983.251(e)(2)]**

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

## Acceptance of Offer [24 CFR 983.252]

### *Family Briefing*

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

### *Persons with Disabilities*

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with mobility impairment to an appropriate accessible PBV unit.

### *Persons with Limited English Proficiency*

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

## 17-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(~~ba~~) and (a)(3)].

### **Leasing [24 CFR 983.253(a)]**

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

### **Filling Vacancies [24 CFR 983.254(a)]**

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

### **HACP Policy**

The owner must notify the HACP in writing (mail, fax, or email) within five (5) business days of learning about any vacancy or expected vacancy.

The HACP will make every reasonable effort to refer families to the owner within ten (10) business days of receiving such notice from the owner.

## Reduction in HAP Contract Units Due to Vacancies [24 CFR 983.254(b)]

If any contract units have been vacant for 120 or more days since owner notice of the vacancy, the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

### HACP Policy

If any contract units have been vacant for 120 days, the HACP 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 HACP will provide the notice to the owner within ten (10) business days of the 120<sup>th</sup> day of the vacancy. The amendment to the HAP contract will be effective on the first day of the month following the date of the PHA's notice.

## 17-VI.G. TENANT SCREENING [24 CFR 983.255]

### PHA Responsibility

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

### HACP Policy

The HACP will not screen to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

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

### 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 CFR 983.256]

The tenant must have legal capacity to enter a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

#### Form of Lease [24 CFR 983.256(b)]

The tenant and the owner must enter into a written lease agreement that is signed by both parties. If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

The PHA may review the owner's lease form to determine if the lease complies with state and local law. If the PHA determines that the lease does not comply with state or local law, the PHA may decline to approve the tenancy.

#### HACP Policy

The HACP will supply a lease to the PBV tenant and owner to sign. If an owner prefers to use their lease, the HACP Legal Department must review and approve it for compliance with state or local law prior to use.

#### Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

The names of the owner and the tenant;

- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

## **Tenancy Addendum [24 CFR 983.256(d)]**

The tenancy addendum in the lease must state:

The program tenancy requirements;

- The composition of the household as approved by the PHA (the names of family members and any PHA-approved live-in aide);
- All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

## **Initial Term and Lease Renewal [24 CFR 983.256(f) ~~and 983.257(b)~~]**

~~The initial lease term must be for at least one (1) 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~~

~~The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for “good cause,” or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the PHA must provide the family with a tenant-based voucher and remove the unit from the PBV HAP contract.~~

## **Changes in the Lease [24 CFR 983.256(e)]**

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the 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 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

## **~~Non-Compliance with Supportive Services Requirement [24 CFR 983.257(e), FR Notice 11/24/08]~~**

~~If a family is living in a project-based unit that is excepted from the 25 percent per project cap on project-basing because of participation in a supportive services program (e.g., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.~~

### ***Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]***

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 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.

~~The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than one hundred eighty (180) consecutive days.~~

### **Continuation of Housing Assistance Payments [24 CFR 982.258]**

Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR 983.211.

### **HACP Policy**

If a participating family receiving zero (0) assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the HACP of the change and request an interim reexamination before the expiration of the 180-day period.

### **Security Deposits [24 CFR 983.25~~89~~]**

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.

### **HACP Policy**

The HACP will allow the owner to collect a security deposit amount not to exceed two (2) months contract rent or up to the maximum amount allowed by state and/or local law.

When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. The PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

## 17-VII.C. MOVES

### Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.26059]

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.

#### HACP Policy

The HACP 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 ten (10) business days of the HACP's determination. The HACP will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in the same building or project;
- PBV assistance in another project; and
- Tenant-based voucher assistance.

If the 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 a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-sized or accessible unit at expiration of the term of the family's voucher (including any extension granted by the PHA).~~

If the PHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by the PHA, or both, the PHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by the PHA and remove the unit from the HAP contract.

#### HACP Policy

When the HACP offers a family another form of assistance that is not a tenant-based voucher, the family will be given thirty (30) days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this thirty (30) day time frame, the HACP will terminate the housing assistance payments at the expiration of the thirty (30) day period.

The HACP may make exceptions to this thirty (30) day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

### Family Right to Move [24 CFR 983.260261]

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.

### **Emergency Transfers under VAWA [Notice PIH 2017-08]**

Except where special consideration is needed for the project-based voucher program, the PHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

HUD requires that the PHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

### **HACP Policy**

When the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking has lived in the unit for less than one (1) year, the HACP will provide several options for continued assistance.

The HACP will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the PHA has PBV units. The PHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in the HACP's public housing program. Such a decision will be made by the HACP based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. The HACP has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking in both its HCV and public housing programs in order to expedite this process. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, the HACP will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the HACP has PBV units. The HACP will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to the HACP's Public Housing program. The HACP has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking as part of the public housing ACOP in order to expedite this process.

#### **17-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.261, ~~FR Notice 11/24/082~~]**

As of April 17, 2018, the PHA may not pay housing assistance under a PBV HAP contract for more than the greater of 25 units or 25 percent of the number of dwelling units in a project unless:

- The units are exclusively for elderly families
- The units are for households eligible for supportive services available to all families receiving PBV assistance in the project

If the project is located in a census tract with a poverty rate of 20 percent or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of 25 units or 40 percent (instead of 25 percent) of the units in the project [FR Notice 7/14/17].

If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by the PHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA shall cease paying HAP on behalf of the family.

Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a “qualifying family” because the family is no longer an elderly family due to a change in family composition, the PHA has the discretion to allow the family to remain in the excepted unit. If the PHA does not exercise this discretion, the family must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.

Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. A PHA or owner cannot determine that a participant’s needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

~~The PHA may not pay housing assistance under a PBV HAP contract for more than twenty-five (25) percent of the number of dwelling units in a project unless the units are [24 CFR 983.56]:~~

- ~~• In a single family building;~~
- ~~• Specifically made available for elderly or disabled families; or~~
- ~~• Specifically made available for families receiving supportive services as defined by the PHA. At least one member must be receiving at least one qualifying supportive service.~~

~~If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined as defined by the 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.~~



~~A family (or remaining members of a family) residing in an excepted unit that no longer meets the criteria for a “qualifying family” in connection with the twenty-five (25) percent per project cap exception (e.g., the family does not successfully complete supportive services requirements, or due to a change in family composition the family is no longer elderly or disabled), must vacate the unit within a reasonable period of time established by the PHA, and the PHA must cease paying housing assistance payments on behalf of the non-qualifying family.~~

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by the 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.

### HACP Policy

The HACP 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 HACP will provide written notice to the family and owner within ten (10) business days of making the determination. The family will be given thirty (30) days from the date of the notice to move out of the PBV unit. If the family does not move out within this thirty (30) day time frame, the HACP will terminate the housing assistance payments at the expiration of this thirty (30) day period.

The HACP may make exceptions to this thirty (30) day period if needed for reasons beyond the family’s control such as death, serious illness, or other medical emergency of a family member.

## **PART VIII: DETERMINING RENT TO OWNER**

### **17-VIII.A. OVERVIEW**

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

During the term of the HAP contract, the rent to owner is redetermined at the owner’s request in accordance with program requirements, and at such time that there is a ~~five-10~~ percent or greater decrease in the published FMR.

## 17-VIII.B. RENT LIMITS [24 CFR 983.301]

Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

- An amount determined by the PHA, not to exceed 110 percent of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;
- The reasonable rent; or
- The rent requested by the owner.

### Certain Tax Credit Units [24 CFR 983.301(c), ~~FR Notice 11/24/08~~]

For certain tax credit units, the rent limits are determined differently than for other PBV units. These different limits apply to contract units that meet all of the following criteria:

The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;

- The contract unit is not located in a qualified census tract;
- There are comparable tax credit units of the same bedroom size as the contract unit in the same building, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and
- The tax credit rent exceeds ~~a PHA-determined amount (not to exceed~~ 110 percent of the fair market rent or any approved exception payment standard);

For contract units that meet all of these criteria, the rent to owner must not exceed the lowest of:

The tax credit rent minus any utility allowance;

- The reasonable rent; or
- The rent requested by the owner.

~~However, PHAs are permitted to use the higher Section 8 rent for a tax credit unit if the tax credit rent is less than the amount that would be permitted under Section 8. In these cases, Section 8 rent reasonableness requirements must continue to be met.~~

### Definitions

A *qualified census tract* is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent and where the census tract is designated as a qualified census tract by HUD.

*Tax credit rent* is the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

### Reasonable Rent [24 CFR 983.301(e) and 983.302(c)(2)]

The PHA must determine reasonable rent in accordance with 24 CFR 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where the PHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

- To correct errors in calculations in accordance with HUD requirements

- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR 983.55
- If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant

If the PHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

### **HACP Policy**

The HACP will elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR 983.302(c)(2). If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, the HACP will use the higher initial rent to owner amount.

### **Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]**

When determining the initial rent to owner, the PHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When 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 thirty (30) day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the thirty (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.

### **HACP Policy**

When determining the initial rent to owner, the HACP will use the following payment standards as applicable in effect as evidenced below and the utility allowance schedule in effect at execution of the HAP contract:

***Tiered:*** The Tiered (Baseline) Voucher Payment Standard uses Using recent American Community Survey (ACS) five (5) year estimates, census tracts in Allegheny County were sorted into one of seven payment standard tiers based on how far above, at, or below their all-bedroom Median Gross Rent (MGR) fell from Allegheny County's all-bedroom Median Gross Rent. Tracts were then set a given percentage above, at, or below the HUD's hypothetical Allegheny County Fair Market Rent (ACFMR) based on which payment standard tier they were sorted into. Census tracts (regardless of opportunity status) under the HACP's jurisdiction were set to be no lower than Tier 6 (one hundred-ten (110) percent of ACFMR) and all of the existing opportunity zones under the former Mobility Payment Standards were built into Tier 1 (one hundred-sixty (160) percent of ACFMR).

The tier breakdown is as follows:

Tier	Sort Condition (tract MGR/County MGR)	Percent Above FMR
6	$\geq 1.01, \leq 1.1$ of AC MGR	110%
5	$\geq 1.11, \leq 1.2$ of AC MGR	120%
4	$\geq 1.21, \leq 1.3$ of AC MGR	130%
3	$\geq 1.31, \leq 1.4$ of AC MGR	140%
2	$\geq 1.41, \leq 1.5$ of AC MGR	150%
1	$\geq 1.51$ of AC MGR	160%

The only criterion to determine which tier the unit will fall under is the unit's census tract location. This payment standard will be available to current voucher holders and new admissions to the Housing Choice Voucher (HCV) program regardless of their participation in the Community Choice Demonstration. However, EHV voucher holders cannot utilize this payment standard until the HACP receives waiver approval and must continue to use one hundred-twenty (120) percent of the Metropolitan Statistical Area Fair Market Rent (MSAFMR).

**Reasonable Accommodations:** Through its MTW authority, the HACP is approved to increase the payment standard by ten (10) percent of the unit's applicable tiered payment standard amount for people with disabilities in need of unit modifications. The unit's census tract location will determine the applicable payment standard tier in which the ten (10) percent increase will be applied.

#### Eligibility Requirements

The family must be approved for a change to the payment standard through the reasonable accommodation process and/or submit evidence that the unit is fully wheelchair accessible, or has a minimum of at least four (4) accessible features that are needed by the prospective voucher holder, which would need to be verified by their third party professional. Additionally, the unit must be inspected by the HACP to confirm the required accessible features as outlined in the reasonable accommodations approval letter are present.

**Rehabilitation:** Units in this payment option can receive an additional ten (10) percent of the unit's applicable tiered payment standard amount. For example, if the unit's census tract location is in Tier 4, the rent calculations for that unit would use the payment standard dollar amount equal to one hundred-forty (140) percent instead of one hundred-thirty (130) percent of the Allegheny County Fair Market Rent (ACFMR).

This payment option is neither indefinite nor for one time use but rather remains available to the landlord should the approved unit change voucher holders. For a unit to qualify for this option the property must be a new unit (the HACP defines a new unit as a property that was not receiving subsidy during the prior twelve (12) month period) and meet at least one of the following:

- Undergo significant upgrades and/or investments that improve the quality of the unit. Examples include (but are not limited to) complete electrical, plumbing, HVAC installation, roof replacement, and building envelope resurfacings. This will be assessed on the following standards:
  - System upgrades\*, and/or
  - Rehabilitation\* of previously substandard units, and/or
  - Renovations\*
- The unit passes the International Property Maintenance Code inspection standard.

- Units built to be affordable under any Inclusionary Zoning (IZ) policy determined by the Department of City Planning.

\*The HACP will generally consider investments of six thousand dollars (\$6,000) or more per unit for labor and/or materials as a substantial rehabilitation and/or modernization project. However, the HACP will also consider substantial rehabilitation and/or modernization projects whose total cost is under six thousand dollars (\$6,000) on a case-by-case basis if the unit meets any of the other standards.

**Please Note:** Green or energy efficient infrastructure is encouraged but at this time will not qualify as an approved investment, and Low Income Housing Tax Credit (LIHTC) units are ineligible for this payment standard during the initial fifteen (15) year affordability period.

#### Required Documentation

The type and nature of the upgrades and/or investments will constitute the specific types of required documentation. However, the HACP will generally require the following:

- Copies of all construction and/or rehabilitation invoices, plans, etc.
- If claiming the International Property Maintenance Code, a copy of the International Property Maintenance Code inspection report
- If claiming that the unit falls into a current Inclusionary Zone, please request that the HACP verifies said claim with the Department of City Planning

**Emergency Housing Voucher:** Since EHV's are not permitted to be project-based, this payment standard does not apply for PBV units.

#### Use of Small Area FMRs (SAFMRs) [24 CFR 888.113(h), as amended by MTW]

While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant-based program under SAFMRs may apply SAFMRs to all future PBV HAP contracts. If the PHA adopts this policy, it must apply to all future PBV projects and the PHA's entire jurisdiction. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy.

Further, the PHA may apply SAFMRs to current PBV projects where the notice of owner selection was made on or before the effective date of PHA implementation, provided the owner is willing to mutually agree to doing so and the application is prospective. The PHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if the PHA subsequently changes its policy. If rents increase as a result of the use of SAFMRs, the rent increase may not be effective until the first anniversary of the HAP contract.

#### HACP Policy

The HACP has MTW authority to project base certain units up to 110 percent of Small Area Fair Market Rent (SAFMR) if the units are located in a mixed-finance development that is owned wholly or partially by HACP, ARMDC, or their subsidiaries. The owner/developer must request specific use of the SAFMR; otherwise, the HACP will apply its MTW exception payment standards automatically.

#### Redetermination of Rent [24 CFR 983.302, ~~FR Notice 11/24/08~~]

The PHA must redetermine the rent to owner upon the owner's request or when there is a ~~five (5) percent~~ 10 percent or greater decrease in the published FMR.

## Rent Increase

If an owner wishes to request an increase in the rent to owner from the PHA, it must be requested at the annual anniversary of the HAP contract (see Section 17-V.D.). The request must be in writing and in the form and manner required by the PHA. The PHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

### HACP Policy

An owner's request for a rent increase must be submitted to the HACP one hundred-twenty (120) days prior to the HAP contract anniversary date and must include the new rent amount the owner is proposing.

The PHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

### HACP Policy

~~Where the owner is requesting a rent increase, the request must be received by the HACP no less than one hundred-twenty (120) calendar days in advance of the first day of the anniversary month of the HAP contract (see Section 17-V.D.). Any rent increase requests received later than the submission deadline will be denied.~~

### ***Rent Increases in Excess of ~~\$200-400~~ (or 10% or More)***

The HACP has established a separate process for evaluating rent increases in excess of ~~four~~two hundred dollars (~~\$200~~400) or ten (10) percent or more. Once a rent increase is submitted, the unit upgrades must be inspected by an HQS inspector to justify the increase above the two hundred dollars (\$200) or ten (10) percent or more threshold as follows:

Tier / Upgrade Category	Approvable Rent Increase Percentage	Upgrade Examples
1 - Small Upgrades	10% - 11.99%	Painting & Fixtures
2 - Moderate Upgrades	12% - 14.99%	Bathrooms, Kitchens, & Doors
3 - Substantial Upgrades	15% or more	Foundation, Roofing, Gutters, Chimney

## Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where the PHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

~~If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment. However, the PHA may stipulate in the HAP contract that the maximum rent on a unit will not be less than the initial rent.~~



## ***Notice of Rent Change***

The rent to owner is 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 twelve (12) calendar months from the annual anniversary of the HAP contract.

## **HACP Policy**

The HACP will provide the owner with at least thirty (30) days written notice of any change in the amount of rent to owner.

## **PHA-Owned Units [24 CFR 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 983.303]**

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except 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 re-determine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five-10 percent or greater decrease in the published FMR in effect sixty (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
- 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 (3) 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 CFR 983.304]**

To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

~~At its discretion, a PHA may reduce the initial rent to owner because of other governmental subsidies, including grants and other subsidized financing.~~

For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

- An insured or non-insured Section 236 project;
- A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;
- A Section 221(d)(3) below market interest rate (BMIR) project;
- A Section 515 project of the Rural Housing Service;
- Any other type of federally subsidized project specified by HUD.

## ***Combining Subsidy***

Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

### **Rent Control [24 CFR 983.305]**

In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

## **PART IX: PAYMENTS TO OWNER**

### **17-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 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 HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

### **17-IX.B. VACANCY PAYMENTS [24 CFR 983.352]**

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

#### **HACP Policy**

If the HACP determines that the owner is responsible for a vacancy and, as a result, is not entitled to keep the housing assistance payment, the HACP will notify the landlord of the amount of housing assistance payment that the owner must repay. The HACP will require the owner to repay the amount owed in accordance with policies in Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

- The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);
- The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;

- The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and
- The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

### **HACP 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 HACP of the vacancy in accordance with the policy in Section 17-VI.F. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within ten (10) business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the HACP may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the HACP within ten (10) business days of the HACP's request, no vacancy payments will be made.

## **17-IX.C. TENANT RENT TO OWNER [24 CFR 983.353]**

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.

### **Tenant and PHA Responsibilities**

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

### **Utility Reimbursements**

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero (0).

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.

#### **HACP Policy**

The PHA will not make utility reimbursements to the family.

### **17-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]**

#### **Meals and Supportive Services**

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

#### **Other Charges by Owner**

The owner may not charge extra amounts for items customarily included in rent in the locality or ~~jurisdiction~~provided at no additional cost to unsubsidized tenants in the premises.

# CHAPTER 18: PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

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## INTRODUCTION

This chapter describes HUD regulations and PHA policies related to the Project-Based Voucher (PBV) program under the Rental Assistance Demonstration (RAD) program in eight (8) parts:

Part I: General Requirements. This part describes general provisions of the PBV program, including maximum budget authority requirements, relocation requirements, and equal opportunity requirements.

Part II: PBV Project Selection. This part describes the cap on assistance at projects receiving PBV assistance, ownership and control, and site selection standards.

Part III: Dwelling Units. This part describes requirements related to housing quality standards, the type and frequency of inspections, and housing accessibility for persons with disabilities.

Part IV: Housing Assistance Payments Contract. This part discusses HAP contract requirements and policies including the execution and term of the HAP contract.

Part V: Selection of PBV Program Participants. This part describes the requirements and policies governing how the PHA and the owner will select a family to receive PBV assistance.

Part VI: Occupancy. This part discusses occupancy requirements related to the lease and describes under what conditions families are allowed or required to move.

Part VII: Determining Contract Rent. This part describes how the initial rent to owner is determined, and how rent will be redetermined throughout the life of the HAP contract.

Part VIII: Payments to Owner. This part describes the types of payments owners may receive under this program.

## PART I: GENERAL REQUIREMENTS

### 18-1.A. OVERVIEW AND HISTORY OF THE RAD PROGRAM

The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four (4) primary objectives are to:

- Preserve and improve public and other assisted housing.
- Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs.
- Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs.



- Increase tenant mobility opportunities.

Under the first component, a PHA with public housing units may submit an application to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:

- Project-based rental assistance (PBRA) under HUD’s Office of Multifamily Housing Programs.
- Project-based vouchers (PBVs) under HUD’s Office of Public and Indian Housing (PIH).

This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.

## 18-I.B. APPLICABLE REGULATIONS

~~Overall~~On the whole, the regulations for both the standard and RAD PBV programs generally follow the regulations for the tenant-based HCV program found at 24 CFR Part 982. However, important parts of the tenant-based regulations do not apply to the project-based program. 24 CFR Part 983 outlines the sections of 24 CFR Part 982 that are not applicable to the project-based program.

For the RAD PBV program, Congress authorized HUD to waive certain statutory and regulatory provisions or establish alternative requirements from the standard PBV program. These provisions are identified in Notice PIH 2019-23 (issued September 5, 2019). Any non-RAD PBV units located in the covered project are subject to the same waivers and alternative requirements where noted in Notice PIH 2019-23 and in this policy.

Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) notices and guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112- 55, approved November 18, 2011), as amended by the Consolidated Appropriations Act of 2014 (Public Law 113-76, approved January 17, 2014), the Consolidated and Further Continuing Appropriations Act of 2015 (Public Law 113-235, approved December 6, 2014), the Consolidated Appropriations Act of 2016 (Public Law 114-113, approved December 18, 2015), the Consolidated Appropriations Act, 2017 (Public Law 115-31, approved May 5, 2017), and section 237 of Title II, Division L, Transportation, Housing and Urban Development, and Related Agencies, of the Consolidated Appropriations Act, 2018 (Public Law 115-141, approved March 23, 2018) collectively, the “RAD Statute.”

Requirements specific to the RAD program may be found in the following:

- Generally, public housing projects converting assistance under RAD are bound by the terms of the notice in effect at the time of closing. For all conversion types, HUD reserves the right in its sole discretion and upon request from the applicant, to apply provisions from previous versions of this notice to program participants that are near conversion.
  - Notice PIH 2023-19 amends Notice PIH 2019-23 and Notice PIH 2021-07, and was effectively immediately.
  - Notice PIH 2019-23 was immediately applicable at the time of closing to all projects converting assistance (notwithstanding execution of a commitment for conversion). Notice PIH 2019-23 was published on September 5, 2019.

- Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a thirty (30) day comment period.
- Notice PIH 2012-32, REV-3 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published January 12, 2017.
  - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which were effective after a 30-day comment period.
- Notice PIH 2012-32, REV-2 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published June 15, 2015.
  - Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period.
- RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (~~106/2014~~)
- RAD Welcome Guide for New Awardees: RAD 1st Component (3/15)
- Notice PIH 2016-17, Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.
  - This Notice applies to all projects that have applied for RAD conversion but have not yet converted as of November 10, 2016.
- Notice PIH 2014-17, Relocation Requirements under the RAD Program, Public Housing in the First Component.
  - This notice may apply to projects that have converted to RAD prior to November 10, 2016, AND who have requested and received approval from HUD to be governed by this notice. See PIH Notice 2016-17, Section 1, Paragraph 1.3 for applicability.

**NOTE: The policies in this chapter follow Notice PIH 2016-17. If your project falls under PIH 2014-17, applicable policies may be found in Section 18-I.D.**

- RAD FAQs (<http://www.radresource.net/search.cfm>)

### HACP Policy

Project	Closing Date	RAD Notice
<a href="#">New Pennley Place Phase I</a>	<a href="#">To be determined</a>	<a href="#">CHAP approved</a>
<a href="#">Bedford Dwellings Choice Neighborhood Replacement Housing Development</a>	<a href="#">To be determined</a>	<a href="#">CHAP approved</a>

In other words, the standard PBV program follows many of the same regulations as the tenant-based HCV program, but not all of them and the RAD PBV program follows many of the same regulations as the standard PBV program, but not all of them.

MTW agencies are able to apply activities impacting the PBV program that are approved in the MTW Plan to properties converting under RAD, provided they do not conflict with RAD requirements.

## 18-I.C. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of the PHA policies related to tenant-based assistance also apply to RAD PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

### HACP Policy

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, the HACP policies for the tenant-based voucher program contained in this administrative plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only.

~~See Exhibit 18-1 for information on projects to which the HACP has attached RAD PBV assistance.~~

## 18-I.D. RELOCATION REQUIREMENTS

For projects that apply for conversion of assistance under the First Component of RAD and will convert November 10, 2016 or later, the following applies [Notice PIH 2016-17]:

- In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed. Any non-RAD PBV units located in the same project are also subject to the right to return.
- Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. A written relocation plan is required if the RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year. While the PHA is not required to have a written relocation plan for temporary relocation lasting one year or less, HUD strongly encourages PHAs to prepare one. Appendix II of Notice PIH 2016-17 contains recommended contents for a relocation plan.
- In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24. The obligation due to relocating residents under RAD are broader than URA relocation assistance and payments.
- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either: a) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or b) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion.

- Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.
- If the PHA's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. PHAs must alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development.

Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:

- Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;
- The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development;
- Income limit eligibility requirements associated with the LIHTC program or another program; and
- Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident.
- Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept a PHA or owner's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, the PHA must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. PHAs are prohibited from employing any tactics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, a PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.
- In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's original unit, however, the PHA may treat multiple converted developments on the same site as one for purposes of right to return. Should the PHA seek to have the resident exercise the right to return at a future phase, the PHA must secure the resident's consent in writing.

Alternative housing options may involve a variety of housing options, including but not limited to:

- Transfers to public housing
- Admission to other affordable housing properties subject to the applicable program rules
- Housing choice voucher (HCV) assistance
- Homeownership programs subject to the applicable program rules
- Other options identified by the PHA

However, for projects that applied for conversion prior to November 10, 2016, the following applies [Notice PIH 2014-17]:

- In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.
- Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. While the PHA is not required to have a written relocation plan, HUD strongly encourages PHAs to prepare one. Appendix I of Notice PIH 2014-17 contains recommended contents for a relocation plan.
- In addition, PHAs must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24.
- Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept a PHA or owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.

## **18-I.E. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8; 24 CFR 5.105; Notice PIH 2016-17]**

RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. These authorities prohibit discrimination and impose affirmative obligations on HUD program participants. PHAs must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance. For example, persons with disabilities returning to the RAD project may not be turned away or placed on a waiting list due to a lack of accessible units. Their need for an accessible unit must be accommodated. See the *RAD Fair Housing, Civil Rights, and Relocation Notice* [Notice PIH 2016-17] for more information.

## **PART II: PBV PROJECT SELECTION**

### **18-II.A. OVERVIEW**

Unlike in the standard PBV program where the PHA typically selects the property through an owner proposal selection process, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2019-23. Therefore, 24 CFR 983.51 does not apply since HUD selects RAD properties through a competitive selection process.

### **18-II.B. OWNERSHIP AND CONTROL [Notice PIH 2019-23]**

For projects governed by Notice PIH 2019-23, the following language applies:

- Under the PBV program, the contract administrator and the owner listed on the contract cannot be the same legal entity (i.e., the PHA cannot execute a contract with itself). To avoid this situation, the PHA may either: 1) Transfer the ownership of the project to a nonprofit affiliate or instrumentality of the PHA (including to a “single-purpose entity” that owns nothing other than the property, which will typically be a requirement of a lender or investor), or 2) The PHA can form a related entity that is responsible for management and leasing and can serve as the owner for purposes of the Section 8 HAP contract; in this scenario, the HAP is then executed between the PHA (as the contract administrator) and the PHA’s related entity (as the owner for HAP contract purposes). Note that in the second scenario, both the PHA and the entity serving as the owner for HAP contract purposes will be required to sign the RAD Use Agreement [RAD Resource Desk FAQ 01/24/19].
- Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. HUD may also allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the project, but only if HUD determines that the PHA or a nonprofit entity preserves an interest in the profit. The requirement for a public or nonprofit entity, or preservation of an interest by a PHA or nonprofit in a property owned by a tax credit entity controlled by a for-profit entity, is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) demonstrates other ownership and control arrangements approved by HUD.
- Control may be established through the terms of the project owner’s governing documents or through a Control Agreement, provided that in either case amendment of the terms of control requires consent from HUD.



For projects subject to the requirements of Notice PIH 2012-32, REV-3, the following language applies:

- Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. The requirement for a public or nonprofit entity is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate (1) holds a fee simple interest in the property; (2) is the lessor under a ground lease with the property owner; (3) has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units, (4) owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable; (5) owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD; (6) owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or (7) other ownership and control arrangements approved by HUD.
- If low-income housing tax credits will be used, HUD may allow ownership of the property to be transferred to a tax credit entity controlled by a for-profit entity if HUD determines that the PHA preserves its interest in the property. Preservation of PHA interest in the property includes but is not limited to the following:
  - The PHA, or an affiliate under its sole control, is the general partner or managing member;
  - The PHA retains fee ownership and leases the real estate to the tax credit entity pursuant to a long-term ground lease;
  - The PHA retains control over leasing the property and determining program eligibility;
  - The PHA enters into a control agreement by which the PHA retains consent rights over certain acts of the project owner and retains certain rights over the project;
  - Other means that HUD finds acceptable

For projects that converted assistance prior to the implementation of Notice PIH 2012-32, REV-3, the following language applies:

- During both the initial term and renewal terms of the HAP contract, ownership must be either of the following:
  - A public or nonprofit entity that has legal title to the property. The entity must have the legal authority to direct the financial, legal, beneficial, and other interests of the property; or
  - A private entity, if the property has low-income tax credits. The PHA must maintain control via a ground lease.

#### **18-II.C. PHA-OWNED UNITS [24 CFR 983.59, FR Notice 1/18/17, and Notice PIH 2017-21]**

If the project is PHA-owned, rent-setting and inspection functions set out in 24 CFR 983.59 must be conducted by an independent entity approved by HUD.

The definition of *ownership or control* provided under Notice PIH 2019-23 (listed above) is used specifically to determine whether a PHA retains control over a project for purposes of HUD's requirement for ownership or control of the covered project under RAD. For purposes of determining whether an independent entity will perform certain functions for the project, the definition of *PHA-owned* under Notice PIH 2017-21 is used. This is the same definition used for standard PBV units. In some cases, a project may meet the RAD definition of *ownership or control* but may not be considered PHA-owned for purposes of requiring an independent entity. The independent entity that performs the program services may be the unit of general local government for the PHA jurisdiction (unless the PHA is itself the unit of general local government or an agency of such government), or another HUD-approved public or private independent entity.

The PHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). The PHA may not use other program receipts to compensate the independent entity for its services. The PHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

#### HACP Policy

If units converted to PBV under RAD are PHA-owned housing, the HACP will ~~use [insert name of the entity] as the HUD-approved independent entity~~ use its MTW authority to operate the program services.

#### **18-II.D. SUBSIDY LAYERING REQUIREMENTS [Notice PIH 2019-23; Notice PIH 2012-32, REV-3; Notice PIH 2012-32, REV-2]**

For projects governed by Notice PIH 2019-23, the following language applies:

- In the case of a PHA that will no longer have ACC units as a result of the pending or simultaneous closing, or have less than 50 units remaining and have initiated procedures to dispose of their final ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project or projects through the conversion. However, the PHA must estimate and plan for outstanding liabilities and costs and must follow Notice PIH 2016-23 or successor notice regarding the administrative activities required to terminate the ACC if it has no plans to develop additional public housing.
- In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.
- Following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless those funds have been identified in the RCC and converted at closing for Section 8 RAD purposes.

For projects governed by Notice PIH 2012-32, REV-3, the following language applies:

- In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered projects. In order to cover the cost of administrative activities required to terminate the ACC, once it no longer has units under the ACC and has no plans to develop additional public housing, the PHA may:
  - Designate that a reserve associated with the project be available to fund any public housing closeout costs (such as an operating deficit reserve or a specific PHA closeout reserve). Any funds not needed for public housing closeout costs would remain in such reserve or may be transferred to another reserve associated with the project (such as the replacement reserve). Thereafter, these funds may be used at the project pursuant to the authorized use of the applicable reserve; or
- Retain funds under the public housing program for this purpose. However, HUD will recapture any public housing funds that a PHA does not expend for closeout costs.
- In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.
- In addition, following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless such funding has been identified in the approved financing plan and included in the approved “sources and uses” attached to the RCC.

For projects governed by the requirements of Notice PIH 2012-32, REV-2, the following language applies:

- In the case of a PHA that is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; the PHA may convey all program funds to the covered project. HUD will recapture any public housing funds that a PHA has not expended once it no longer has units under ACC. In the case where the PHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

## 18-II.E. PBV PERCENTAGE LIMITATION AND UNIT CAP [Notice PIH 2019-23]

### PBV Percentage Limitation

Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which under the standard PBV program is set at 20 percent of the authorized units allocated to a PHA under the HCV program. The number of PBV units excluded from the PHA's PBV program cap cannot exceed the number of former public housing units that those PBV units are replacing through the course of the RAD conversion. All PBV units in a covered project that replace former public housing units at the time of conversion are excluded from both the numerator and the denominator when calculating the percent of vouchers that may be project-based by a PHA. To implement this provision, HUD is waiving section 8(o)(13)(B) of the 1937 Act as well as 24 CFR 983.6.

### Unit Cap Limitation

When HUD published REV-3 of Notice PIH 2012-32, the cap on the number of assisted units in each project was eliminated. Under the standard PBV program the cap is set at the greater of 25 units or 25 percent of the units in the project. HUD is waiving this requirement, and projects governed by Notice PIH 2019-23 and Notice PIH 2012-32, REV-3 have no cap on the number of units that may receive PBV assistance in a project.

However, for projects that are governed by REV-2 of Notice PIH 2012-32, the cap on the number of PBV units in the project is increased to 50 percent. In these projects, however, provided units met certain exception criteria, the PHA may have converted a larger number of units to RAD PBV. For projects governed by the requirements of Notice PIH 2012-32, REV-2 **only**, the following language applies:

- In general, the PHA may not provide PBV assistance for units in a project if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than 50 percent of the number of dwelling units (assisted or unassisted) in the project. However, PHAs may exceed the 50 percent limitation when units in the project are occupied by elderly and/or disabled families or families that will receive supportive services. These units are known as “excepted units” and do not count toward the project cap.
- For projects governed by the requirements of Notice PIH 2012-32, REV-2 choosing to include excepted units, additional policy decisions may be required.

### HACP Policy

For projects governed by Notice PIH 2012-32, REV-2, the HACP will not provide RAD PBV assistance for any excepted units.

## 18-II.F. SITE SELECTION STANDARDS [Notice PIH 2019-23; Notice PIH 2016-17]

Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, with the exception of 983.57(b)(1) and (c)(2). HUD waives the provisions regarding deconcentration of poverty and expanding housing and economic opportunity for existing housing sites.

To facilitate the uniform treatment of residents and units, any non-RAD PBV units located in the same project are subject to the terms of this provision.

HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

### **18-II.G. ENVIRONMENTAL REVIEW [Notice PIH 2019-23; *Environmental Review Requirements for RAD Conversions*, March 2019]**

HUD cannot approve an applicant's financing plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements. Environmental documents must be submitted no later than the applicant's financing plan. HUD will not issue a RAD Conversion Commitment (RCC) if the project plan does not meet the environmental review requirements described in Attachment 1A of Notice PIH 2019-23. Once an awardee has submitted an application for a specific project, they may not make any choice limiting actions before the completion of the environmental review.

## **PART III: DWELLING UNITS**

### **18-III.A. OVERVIEW**

This part identifies the special housing quality standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

### **18-III.B. HOUSING QUALITY STANDARDS [24 CFR 983.101]**

The housing quality standards (HQS) for the tenant-based program generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

### **Lead-based Paint [24 CFR 983.101(c); Notice PIH 2019-23]**

The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

### **18-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES [Notice PIH 2016-17]**

Federal accessibility requirements apply to all conversions, whether they entail new construction, alternations, or existing facilities. The housing must comply with program accessibility requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. The PHA must ensure that the percentage of accessible dwelling units complies with the requirements of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

### **18-III.D. INSPECTING UNITS**

#### **Initial Inspection [RAD Quick Reference Guide; Notice PIH 2019-23]**

Under standard PBV regulations at 24 CFR 983.103(b), a PHA may not enter into a HAP contract until the PHA has determined all units comply with HQS. It is the responsibility of the contract administrator to perform this initial inspection (unless units are PHA-owned). In order to accommodate projects in which repairs are conducted, however, HUD has waived this requirement when units are undergoing rehabilitation. In this case, units must meet HQS by the date indicated in the RAD Conversion Commitment (RCC). To place the unit under HAP contract and commence making payments, the PHA may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life-threatening conditions exist in the unit or units to be added to the HAP contract instead of conducting an initial inspection. During the period of the work, HQS requirements apply. The PHA must enforce the project owner's obligations and conduct inspections when needed, (for example in response to tenant complaints or other information coming to its attention), and the owner must correct any deficiencies in accordance with HQS requirements (i.e., no more than 24 hours for a life-threatening deficiency, and within no more than 30 calendar days or any PHA-approved extension for other defects, but no later than the date of the completion of the work as indicated in the RCC).

#### **Turnover Inspections [24 CFR 983.103(c), FR Notice 1/18/17, and Notice PIH 2017-20]**

Before assisting a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

#### **Annual/Biennial Inspections [24 CFR 983.103(d); FR Notice 6/25/14]**

At least once every twenty-four (24) months during the term of the HAP contract, the PHA must inspect a random sample consisting of at least 20 percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

#### **HACP Policy**

The HACP 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 HQS.

If more than 20 percent of the sample of inspected contract units in a building fail the initial inspection, the HACP must reinspect 100 percent of the contract units in the building.



### **Alternative Inspections [24 CFR 983.103(g); Notice PIH 2016-05]**

In the case of mixed-finance properties that are subject to alternative inspections, the PHA may rely upon an alternative inspection conducted at least triennially to demonstrate compliance with inspection requirements.

#### **PHA Policy**

The HACP will not rely on alternative inspection standards.

### **Other Inspections [24 CFR 983.103(e)]**

The PHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information coming to its attention in scheduling inspections.

The PHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

In conducting PHA supervisory quality control HQS inspections, the PHA should include a representative sample of both tenant-based and project-based units.

### **Inspecting PHA-Owned Units [24 CFR 983.103(f); Notice PIH 2017-21]**

In the case of PHA-owned units, all required inspections must be performed by an independent entity designated by the PHA and approved by HUD. The independent entity must furnish a copy of each inspection report to the PHA and to the HUD field office where the project is located. The PHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by the PHA-owner.

## **PART IV: HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT**

### **18-IV.A. OVERVIEW [[RAD PBV Quick Reference Guide 106/1420](#)]**

Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with the PHA that will administer the PBV assistance. Units assisted under a RAD PBV HAP contract must be subject to long-term, renewable use and affordability restrictions.

## 18-IV.B. HAP CONTRACT REQUIREMENTS

### Contract Information [[RAD PBV Quick Reference Guide 106/1420](#); Notice PIH 2019-23]

The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621). For closings on or after January 1, 2018, HUD incorporated the RAD rider directly into the standard PBV HAP contract. For closing that occurred prior to January 1, 2018, the RAD rider must be attached to the PBV HAP contract.

The distinction between “existing housing” and “rehabilitated and newly constructed housing” is overridden by RAD requirements. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

### Execution and Effective date of the HAP Contract [*RADBlast!* 7/11/16]

RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, the PHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two (2) months following the completed closing.

### Term of HAP Contract [Notice PIH 2019-23]

The initial term of the HAP contract may not be for less than fifteen (15) years and may be for a term of up to twenty (20) years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. Contracts are subject to the terms and conditions applicable at the time of each offer and further subject to the availability of appropriations for each year of each such renewal. To implement this provision, HUD is waiving section 8(o)(13)(F) of The United States Housing Act of 1937, which permits a minimum term of one year, as well as 24 CFR 983.205(a), which governs the contract term.

### Agreement to Enter into a HAP (AHAP) Contract [Notice PIH 2019-23]

For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

### Mandatory Contract Renewal [Notice PIH 2019-23]

By statute, upon contract expiration, the agency administering the vouchers will offer, and the PHA will accept, renewal of the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. The contract is subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently 24 CFR 983.205(b), governing the PHA discretion to renew the contract, will not apply.

In the event that the HAP contract is removed due to breach, non-compliance or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

## **Remedies for HQS Violations [24 CFR 983.208(b)]**

The PHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If the PHA determines that a contract unit does not comply with HQS, the PHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

### **PHA Policy**

The HACP will abate and terminate PBV HAP contracts for noncompliance with HQS in accordance with the policies used in the tenant-based voucher program. These policies are contained in Section 8- II.G., Enforcing Owner Compliance.

## **18-IV.C. AMENDMENTS TO THE HAP CONTRACT**

### **Floating Units [Notice PIH 2019-23]**

Upon request of the owner to the voucher agency that will administer the project, HUD will permit assistance to float among units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.

If the PHA chooses to float units, units are not specifically identified on the HAP contract, rather the HAP contract must specify the number and type of units in the property that are RAD PBV units. The property must maintain the same number and type of RAD units from the time of the initial HAP contract execution forward.

### **PHA Policy**

The HACP will float assistance among unoccupied units within the project. Tracking of the number and type of units at the property, as well as identification of comparable units when assistance is floated, will be maintained by each property.

### **Reduction in HAP Contract Units [Notice PIH 2019-23]**

Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

The PHA may not reduce the number of assisted units without written HUD approval. Any HUD approval of a PHA's request to reduce the number of assisted units under contract is subject to conditions that HUD may impose. MTW agencies may not alter this requirement.

If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where the development has "floating" units.

## **18-IV.D. HAP CONTRACT YEAR AND ANNIVERSARY DATES [24 CFR 983.302(e)]**

The HAP contract year is the period of twelve (12) calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary date for all units under a particular HAP contract.

#### **18-IV.E. OWNER RESPONSIBILITIES UNDER THE HAP CONTRACT [24 CFR 983.210]**

When the owner executes the HAP contract, ~~he or she certifies~~they certify that at such execution and at all times during the term of the HAP contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases;
- Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements;
- To the best of the owner's knowledge, the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;
- The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;
- The amount of the HAP the owner is receiving is correct under the HAP contract;
- The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;
- Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;
- The family does not own or have any interest in the contract unit (this does not apply to the family's membership in a cooperative); and
- Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

#### **18-IV.F. VACANCY PAYMENTS [24 CFR 983.352(b)]**

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner for a PHA- determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by the PHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner, including amounts available from the tenant's security deposit.

#### **HACP Policy**

The HACP will provide vacancy payments to the owner. The HAP contract with the owner will contain the amount of the vacancy payment and the period for which the owner will qualify for these payments.

## PART V: SELECTION OF PBV PROGRAM PARTICIPANTS

### 18-V.A. OVERVIEW

Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

### 18-V.B. PROHIBITED RESCREENING OF EXISTING TENANTS UPON CONVERSION [Notice PIH 2019-23]

Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2019-23 (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family. Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.

Further, to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR 983 for non-RAD PBV. Any non-RAD PBV units located in the same project are also subject to the right to return.

For the RAD PBV program, *in-place family* means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

### 18-V.C. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and the PHA, [meet asset limitation requirements](#), have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members [24 CFR 982.201(a) and 24 CFR 983.2(a)]. In addition, an applicant family must provide social security information for family members [24 CFR 5.216 and 5.218] and consent to the PHA's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. The PHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

## HACP Policy

The HACP will determine an applicant family's eligibility for the RAD PBV program in accordance with the policies in Chapter 3.

### **18-V.D. ORGANIZATION OF THE WAITING LIST [24 CFR 983.251(c); Notice PIH 2019-23]**

The standard PBV regulations at 24 CFR 983.251 set out program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. Any non-RAD PBV units located in the same project are also subject to these requirements.

## HACP Policy.

The HACP will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance. ~~The PHA currently has waiting lists for the following RAD PBV projects:~~

~~[Insert list of projects/buildings receiving PBV assistance for which separate waiting lists are maintained].~~

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a covered project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the HACP will consider transferring such household, consistent with program requirements for administration of waiting lists, to the HACP's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

The HACP will maintain the project-specific waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv). The HACP will provide applicants full information about each development, including an estimate of the wait time, location, occupancy, number and size of accessible units, and amenities like day care, security, transportation, and training programs at each development with a site-based waiting list. The system for selection will be consistent with all applicable civil rights and fair housing laws and regulations and may not be in conflict with any imposed or pending court order, settlement agreement, or complaint brought by HUD.

~~The PHA will assess any changes in racial, ethnic or disability related tenant composition at each PHA site that may have occurred during the implementation of the site-based waiting list, based on confirmed and accurate PIC occupancy data. At least every three years, the PHA will use independent testers to assure that the site-based system is not being implemented in a discriminatory manner.~~

The HACP will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Section 18-VI.E.

### **18-V.E. SELECTION FROM THE WAITING LIST [24 CFR 983.251(c)]**

After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from the PHA's waiting list. The PHA may establish selection criteria or preferences for occupancy of particular PBV units.



### **Income Targeting [24 CFR 983.251(c)(6); Notice PIH 2019-23]**

At least 75 percent of the families admitted to the PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the waiting list must be extremely-low income families. The income targeting requirement applies to the total of admissions to both programs.

Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements. Any non-RAD PBV units located in the same project are also subject to these requirements.

### **Units with Accessibility Features [24 CFR 983.251(c)(7)]**

When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, the PHA must first refer families who require such features to the owner.

### **Preferences [24 CFR 983.251(d); FR Notice 11/24/08; Notice PIH 2019-23]**

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.

### **PHA Policy**

The PHA will not offer any preferences for the RAD PBV program. However, the PHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with Section 18-VI.E.

## **18-V.F. OFFER OF PBV ASSISTANCE**

### **Refusal of Offer [24 CFR 983.251(e)(3)]**

The PHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

- Refusing to list the applicant on the waiting list for tenant-based voucher assistance
- Denying any admission preference for which the applicant qualifies
- Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under the PHA's selection policy
- Removing the applicant from the tenant-based voucher waiting list

### **Disapproval by Landlord [24 CFR 983.251(e)(2)]**

If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

## **Acceptance of Offer [24 CFR 983.252]**

### ***Family Briefing***

When a family accepts an offer for PBV assistance, the PHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, the PHA must provide a briefing packet that explains how the PHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

### ***Persons with Disabilities***

If an applicant family's head or spouse is disabled, the PHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. This may include making alternative formats available (see Chapter 2). In addition, the PHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

### ***Persons with Limited English Proficiency***

The PHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166 (see Chapter 2).

## **18-V.G. OWNER SELECTION OF TENANTS [24 CFR 983.253]**

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

### **Leasing [24 CFR 983.253(a)]**

During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by the PHA from the PHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on the PHA's subsidy standards.

### **Filling Vacancies [24 CFR 983.254(a)]**

The owner must promptly notify the PHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, the PHA must make every reasonable effort to promptly refer a sufficient number of families for the owner to fill such vacancies. The PHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

### **HACP Policy**

The owner must notify the HACP in writing (mail, fax, or email) within five (5) business days of learning about any vacancy or expected vacancy.

The HACP will make every reasonable effort to refer families to the owner within ten (10) business days of receiving such notice from the owner.

## 18-V.H. TENANT SCREENING [24 CFR 983.255]

### PHA Responsibility

The PHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, the PHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

### HACP Policy

The HACP will not conduct screening to determine a PBV applicant family's suitability for tenancy.

The PHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by the PHA) of the family's current landlord and any prior landlords.

In addition, the PHA may offer the owner other information the PHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. The PHA must provide applicant families a description of the PHA policy on providing information to owners, and the PHA must give the same types of information to all owners.

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

### HACP Policy

The HACP will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. The HACP will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

### Owner Responsibility

The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

- Payment of rent and utility bills
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others
- Compliance with other essential conditions of tenancy

## PART VI: OCCUPANCY

### 18-VI.A. OVERVIEW

After an applicant has been selected from the waiting list, determined eligible by the PHA, referred to an owner, and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

### 18-VI.B. LEASE [24 CFR 983.256]

The tenant must have legal capacity to enter into a lease under state and local law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

#### Lease Requirements [24 CFR 983.256(c); Notice PIH 2019-23]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provided by the owner;
- The amount of any charges for food, furniture, or supportive services; and
- For any family admitted following conversion, the lease must specify what will happen if the family elects to remain in its unit after increasing its income such that it requires zero (0) HAP. Specifically, the lease must make clear how the tenant rent will be calculated, and it must address the transition to a new lease. The PHA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD.

#### Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements
- The composition of the household as approved by the PHA (the names of family members and any PHA- approved live-in aide)

All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

## **Initial Term and Lease Renewal [24 CFR 983.256(f); *RAD PBV Quick Reference Guide* 106/1420]**

Leases for residents who will remain in place (i.e., who will not be relocated solely as a result of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.

The initial lease term must be for at least one (1) year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

- The owner terminates the lease for good cause
- The tenant terminates the lease
- The owner and tenant agree to terminate the lease
- The PHA terminates the HAP contract
- The PHA terminates assistance for the family

## **Changes in the Lease [24 CFR 983.256(e)]**

If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give the PHA a copy of all changes.

The owner must notify the PHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by the PHA and in accordance with the terms of the lease relating to its amendment. The PHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

## **Owner Termination of Tenancy [24 CFR 983.257; Notice PIH 2019-23]**

With two (2) exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Section 12-III.B. and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner’s lease as well as the PHA’s administrative plan. In addition to the regulations at 24 CFR 983.257 related to project owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease, which may not be less than:

- A reasonable period of time, but not to exceed 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
- Not less than fourteen (14) days in the case of nonpayment of rent
- Not less than 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 will apply

These provisions apply to non-RAD PBV units located in the project as well.

***Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]***

The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

**Continuation of Housing Assistance Payments [24 CFR 983.258; Notice PIH 2019-23; *RAD PBV Quick Reference Guide 6/20*]**

~~Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TTP equals or exceeds gross rent. In this case, until such time as the family's TTP falls below the gross rent, the family will pay the owner the lesser of their TTP minus the utility allowance or any applicable maximum rent under the LIHTC program. The family will continue to pay this amount until/if circumstances change and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract. Any non-RAD PBV units located in the same project are also subject to these requirements.~~

~~Unless a waiver is requested and approved, following conversion, 24 CFR 983.53(d) applies, and any new admission referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. The PHA may request a waiver from HUD in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not paid HAP for the family in 180 days.~~

~~Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180-day window. If a family's assistance is terminated as a result of their zero HAP status, the PHA must remove the unit from the HAP contract. If the project is fully assisted, the PHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207.~~

**HACP Policy**

~~The HACP will not request a waiver from HUD to allow families whose TTP initially exceeds gross rent to occupy units.~~

~~If a participating family who was admitted after the RAD conversion receive zero (0) assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the HACP of the change and request an interim reexamination before the expiration of the one hundred eighty (180) day period.~~



## **Pre-Conversion Residents**

The unit for a family with a TTP that equals or exceeds the gross rent (which is defined as the contract rent plus any utility allowance for the unit) must be placed on the PBV HAP contract and the family must be admitted to the PBV program. In this case, and until such time as the family's TTP falls below the gross rent, the family will pay the owner the alternate rent which is defined as the lesser of:

- The family's TTP minus the utility allowance (subject to any required phase-in); or
- The Zero HAP Rent Cap, which is the lower of:
  - 110 percent of the applicable FMR minus the utility allowance; or
  - In the event the units are subject to more restrictive rent setting requirement under the LIHTC or HOME programs (or other programs approved by HUD on a project-specific basis, the rent to owner set to comply with such requirements.

The family will continue to pay this amount until/if circumstances change, and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance in which case normal PBV rent requirements will apply to the family. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract or added back to the HAP Contract. Any non-RAD PBV units located in the same project are also subject to these requirements.

After a family has paid the Zero HAP Rent Cap for a period of one hundred eighty (180) days, the PHA must remove the unit from the HAP Contract and the family's participating in the PBV program ends. If the Covered Project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit back onto the HAP contract and admit an eligible family. If the Covered Project is partially assisted and the family subsequently leaves the property, the unit must be reinstated back onto the HAP contract unless the PHA previously substituted a different unit on the HAP contract in accordance with 24 CFR § 983.207 or, where "floating units" have been permitted.

Additionally, if the family continues to reside in the project after the family's unit was removed from the HAP contract, the family may request to return to the PBV program if the family's income subsequently decreases to the extent that the family's TTP is less than the Zero-HAP Rent Cap, and the family is otherwise eligible for PBV assistance. The PHA must, at the earliest opportunity, reinstate the family's unit back onto the HAP contract to provide rental assistance to the family. If the project was partially assisted and the PHA previously substituted a different unit on the HAP contract, the PHA must substitute the family's unit for a vacant unit on the HAP contract if there is a vacant unit at the time of the request, or by doing so as soon as a unit on the HAP contract becomes vacant if there are no vacant units on the HAP contract at the time of the family request

## **New Admission Families**

Unless a waiver is requested and approved, following conversion, 24 CFR 983.53(d) applies, and any new admission referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. This means a family's TTP may not equal or exceed the gross rent for the unit at admission. The PHA may request a waiver from HUD in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if the PHA has not paid HAP for the family in one hundred eighty (180) days.

Further, for any new families admitted after the conversion, assistance will be terminated one hundred eighty (180) days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the one hundred eighty (180) day window. If a family's assistance is terminated as a result of their zero HAP status, the PHA must remove the unit from the HAP contract. If the project is fully assisted and the family subsequently leaves the property, the PHA must reinstate the unit after the family has vacated the property and admit an eligible family. If the project is partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207 or where floating units have been permitted.

Per the RAD Use Agreement, the owner may charge the family a rent that does not exceed 30 percent of 80 percent of the area median income. If a unit is removed from the RAD PBV HAP contract, then the lease terminates automatically, as stated in the tenancy addendum, as though the RAD PBV HAP contract had been terminated. The tenant must be offered a new lease, which must reflect the new tenant rent. A tenant in this circumstance is no longer a program participant and therefore no longer benefits from any of the rights or protections specific to RAD, or to the PBV program. Should the family subsequently lose employment, the owner may choose to reduce the family's rent, but if the family wishes to be admitted to the HCV/PBV program, then it must be admitted through the waiting list like any other applicant.

In circumstances where low RAD PBV rents may prohibit a significant number of otherwise eligible families on the waiting list from being admitted to the project because they do not require subsidy, and which could consequently create an undue concentration of poverty at the project compared to non-RAD PBV projects, a PHA may request a waiver from HUD for the covered project. The waiver will apply the alternative requirements applicable to the pre-conversion residents to new admission families.

### **Security Deposits [24 CFR 983.259; *RAD PBV Quick Reference Guide 106/1420*]**

Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. If a tenant residing in a converting project has not previously provided a security deposit, then the owner may collect a security deposit at the time of initial lease execution. Otherwise the security deposit requirements for standard PBV apply.

The owner may collect a security deposit from the tenant. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

### **PHA Policy**

The HACP 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 HACP has no liability or responsibility for payment of any amount owed by the family to the owner.

## **18-VI.C. PUBLIC HOUSING FSS AND ROSS PARTICIPANTS [Notice PIH 2019-23]**

Current PH FSS participants will continue to participate in the PHA's FSS program, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the current fiscal year (FY) PH FSS notice of funding availability (NOFA) to serve those FSS participants who live in units converted to RAD and who will as a result be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program.

Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding.

Current Resident Opportunities and Self-Sufficiency–Service Coordinators (ROSS–SC) program grantees will be able to finish out their current ROSS–SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS–SC grants.

At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a nonprofit or local resident association and this consequence of a RAD conversion may impact those entities.

Any non-RAD PBV units located in the same project are also subject to these requirements.

## **18-VI.D. RESIDENT PARTICIPATION AND FUNDING [Notice PIH 2019-23]**

Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.

## **18-VI.E. MOVES**

### **Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.260; Notice PIH 2019-23]**

All in-place tenants at the time of conversion are eligible to remain in the project. Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project. If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family. Any non-RAD PBV units located in the same project are also subject to these requirements.

Following conversion, the standard PBV regulations apply. If the PHA determines that a family is occupying a wrong-size unit, based on the PHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, the PHA must promptly notify the family and the owner of this determination, and the PHA must offer the family the opportunity to receive continued housing assistance in another unit.

## HACP Policy

The HACP 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 ten (10) business days of the HACP's determination. The HACP will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

- PBV assistance in the same building or project
- PBV assistance in another project
- Tenant-based voucher assistance

If the PHA offers the family a tenant-based voucher, the PHA must terminate the housing assistance payments for a wrong-size or accessible unit at the earlier of the expiration of the term of the family's voucher, including any extension granted by the PHA, or the date upon which the family vacates the unit. If the family does not move out of the wrong-size unit or accessible unit by the expiration of the term of the family's voucher, 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.

## HACP Policy

When the HACP offers a family another form of assistance that is not a tenant-based voucher, the family will be given thirty (30) days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this thirty (30) day time frame, the HACP will terminate the housing assistance payments at the expiration of this thirty (30) day period.

The HACP may make exceptions to this thirty (30) day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

## **Family Right to Move [24 CFR 983.261]**

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the PHA.

## **Choice Mobility [Notice PIH 2019-23; PRRAC Choice Mobility Implementation Guidance, 8/20]**

### **Family's Right to Choice Mobility**

Under RAD PBV, the choice mobility option provides families with the opportunity to move with continued assistance any time after twelve (12) months of occupancy. All residents in converted properties should be aware of their housing mobility rights and of their options in a range of neighborhoods.

## HACP Policy

To ensure that residents are fully aware of and understand their rights under choice mobility, the HACP will inform families of their rights under the choice mobility option and the benefits to moving to lower poverty areas and provide a summary of the steps necessary to exercise this option, at the time the family signs the lease for the RAD PBV unit and during their annual recertification.

Information on choice mobility will be made be accessible to persons with disabilities, ensuring any information, electronic or otherwise, is accessible for persons with vision, hearing, and other disabilities. This information will also be made available in accordance with Limited English Proficiency (LEP) requirements, including document translation and user of interpretation services. See Chapter 2 for a more thorough discussion of accessibility and LEP requirements.

### **Moving with Continued Assistance under Choice Mobility**

If the family wishes to move with continued tenant-based assistance under choice mobility, the family must contact the PHA to request the rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with lease requirements, the PHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If a voucher or other comparable tenant-based assistance is not immediately available, the PHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

Families are eligible to move with continued assistance under choice mobility after twelve (12) months of occupancy. If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

### **HACP Policy:**

Prior to providing notice to the owner to terminate the lease, the family may submit a written request to the HACP for a choice mobility voucher at any time after completing the twelve (12) month occupancy requirement.

The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their twelve (12) month occupancy requirement, their twelve (12) month clock will reset. The family must wait twelve (12) months from the date of move at the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the twelve (12) month clock does not reset.

The HACP will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one (1) year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.

The HACP will not subject RAD PBV families applying for choice mobility vouchers to any additional rescreening requirements in order to receive a tenant-based voucher.

Families exercising choice mobility will not be required to vacate their units before a lease has been entered into using their tenant-based voucher. At the time the HACP issues a choice mobility voucher, the HACP will notify the family of their right to remain in their unit if they are unable find a rental unit using the tenant-based voucher.



## ***Turnover Cap***

If as a result of RAD, the total number of PBV units (including RAD PBV units) administered by the PHA exceeds 20 percent of the PHA's authorized units under its HCV ACC with HUD, the PHA may establish a turnover cap. The PHA is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If the PHA chooses to establish a turnover cap and the cap is implemented, the PHA must create and maintain a waiting list in the order requests from eligible households were received.

## **HACP Policy**

As a result of RAD, the total number of PBV units (including RAD PBV units) administered by the HACP exceeds 20 percent of the HACP's authorized units under its HCV ACC with HUD. Therefore, the HACP will establish a choice mobility cap. The HACP will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.

Families who requested a choice mobility voucher and are denied due to the cap will be given priority the following year when choice mobility vouchers are again issued since the choice mobility list will be organized by the date and time of the family's request.

## **Emergency Transfers under VAWA [Notice PIH 2017-08]**

Except where special consideration is needed for the project-based voucher program, the PHA will follow VAWA policies as outlined in Chapter 16 Part IX of this administrative plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA (Exhibit 16-4).

HUD requires that the PHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

## **HACP Policy**

When the victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking has lived in the unit for less than one (1) year, the HACP will provide several options for continued assistance.

The HACP will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where the HACP has PBV units. The HACP will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible. If assistance is transferred to another development, the HACP will give priority to the participant on the other development's waiting list.

If no units are available for an internal transfer to a PBV development or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in the HACP's public housing program. Such a decision will be made by the HACP based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program. The HACP has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, ~~and~~ stalking, and human trafficking in both its HCV and public housing programs in order to expedite this process. See Section 4-III.C. of this administrative plan.

If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, the HACP will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where the HACP has PBV units. The HACP will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.



If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to the HACP's public housing program. The HACP has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, ~~and~~ stalking, and human trafficking as part of the public housing ACOP in order to expedite this process.

#### **18-VI.F. REEXAMINATIONS [RAD PBV Quick Reference Guide 106/1420]**

A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, the PHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

#### **18-VI.G. EARNED INCOME DISALLOWANCE [Notice PIH 2019-23]**

Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR 5.617. Upon the expiration of the EID for such families, the rent adjustment will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time. Any non-RAD PBV units located in the same project are also subject to these requirements.

Under the HCV program, the EID exclusion is limited to only persons with disabilities [24 CFR 5.617(b)]. In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to only persons with disabilities is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant, such as tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment), tenants that move into the property following conversion, etc., is covered by this waiver.

#### **18-VI.H. RESIDENTS' PROCEDURAL RIGHTS [Notice PIH 2019-23]**

HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV and to non-RAD PBV units located in the same project beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction (which MTW agencies may not alter), the termination procedure for RAD conversions to PBV requires that PHAs provide adequate written notice of termination of the lease, which is:

- A reasonable period of time, but not to exceed thirty (30) days:
- If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
- In the event of any drug-related or violent criminal activity or any felony conviction.

- Not less than fourteen (14) days in the case of nonpayment of rent
- Not less than 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 will apply

## **18-VI.I. INFORMAL REVIEWS AND HEARINGS [Notice PIH 2019-23]**

In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(v) (See 16-III.C. Informal Hearings for Participants), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an owner action in accordance with the individual’s lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident’s rights, obligations, welfare, or status.

- For any hearing required under 24 CFR 982.555(a)(1)(i)–(v), the contract administrator will perform the hearing in accordance with Chapter 16 Part III: Informal Reviews and Hearings, as is the current standard in the program.
- For any additional hearings required under RAD, the PHA (as owner) will perform the hearing.

An informal hearing will not be required for class grievances or for disputes between residents not involving the PHA (as owner) or contract administrator. This hearing requirement does not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA (as owner) or contract administrator.

The owner must give residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)–(v). (See Chapter 16)

The owner must provide an opportunity for an informal hearing before an eviction.

## **PART VII: DETERMINING CONTRACT RENT**

### **18-VII.A. INITIAL CONTRACT RENTS [Notice PIH 2019-23]**

RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each PHA’s public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PIH 2019-23. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located.

PHAs may adjust subsidy (and contract rents) across multiple projects as long as the PHA does not exceed the aggregate subsidy for all of the projects the PHA has submitted for conversion under RAD.

Notwithstanding HUD’s calculation of the initial contract rent based on the project’s subsidy under the public housing program and any modifications made to the initial contract rent, the initial rents are set at the lower of:

- An amount determined by the PHA, not to exceed 110 percent of the fair market rent (FMR) or the PHA's exception payment standard approved by HUD, or the alternate rent cap in a PHA's MTW agreement minus any utility allowance
- The reasonable rent
- The rent requested by the owner

#### **18-VII.B. ADJUSTING CONTRACT RENTS [Notice PIH 2019-23; [RAD PBV Quick Reference Guide 106/1420](#); [PHA Asset Repositioning “How to Apply OCAF for RAD PBV” Webinar](#)]**

~~RAD PBV contract rents are adjusted differently than contract rents in the standard PBV program. At each annual anniversary of the HAP contract, Contract contract rents will be adjusted annually only by HUD's operating cost adjustment factor (OCAF) at each anniversary of the HAP contract that is applied to the current contract rent, less the portion of the rent paid for debt service,~~ subject to the availability of appropriations for each year of the contract term. As such, section 8(o)(13)(I) of the 1937 Act, and 24 CFR 983.301 and 983.302, concerning rent determinations, do not apply when adjusting rents. The rent to owner may at no time exceed the reasonable rent charged for comparable unassisted units in the private market, as determined by the contract administrator in accordance with 24 CFR 983.303.

Contract rents may not exceed the reasonable rent (as determined by the PHA that administers the contract or independent entity, as applicable), with the exception that the contract rent for each unit may not be reduced below the initial contract rent under the initial HAP contract.

However, the rent to owner may fall below the initial contract rent in the following situations:

- To correct errors in calculations in accordance with HUD requirements
- If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 983.55 (prohibition of excess public assistance)
- If a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant
- The contract rent adjustment will be the lesser of:
- The current contract rent increased by the operating cost adjustment factor (OCAF), which is published annually in the *Federal Register*; or
- The reasonable rent

The administering PHA (or independent entity, if the project is PHA-owned) is responsible for processing rent adjustments, at each contract anniversary date, in accordance with the prevailing OCAF. The PHA who administers the contract (directly or via an independent entity) must maintain records to demonstrate how OCAF amounts were determined and how rent adjustments were calculated. HUD approval of rent adjustments are not required.

~~At least one hundred twenty (120) days before the contract anniversary date, HUD recommends that the owner submit the OCAF rent adjustment worksheet (Form HUD-9625) to the PHA administering the PBV assistance (or the independent entity). The PHA will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303. If rents would be unreasonable following application of the requested OCAF, then the rent can only be increased up to the reasonable rent. The approved rent adjustment will go into effect and the new rents to owner will take effect on the date of the contract anniversary.~~

Properties are eligible to receive prior years' OCAF adjustments for years in which the OCAF were not taken. The OCAF must be applied retroactively if it was missed. The PHA administering the contract (or the independent entity) must make sure that all OCAFs have been applied correctly since the RAD closing and calculate the current rents accordingly, including making sure that the RAD PBV contract rents do not exceed the PBV program caps.

### HACP Policy

The owner will request a contract rent adjustment from the HACP who administers the contract one hundred-twenty (120) days prior to the HAP contract anniversary date by submitting a completed OCAF rent adjustment worksheet (Form HUD-9624). The independent entity will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303. If rents would be unreasonable following application of the requested OCAF, then the rent will only be increased up to the reasonable rent. The independent entity will notify the HACP who administers the contract in writing of the results of its review of the rent adjustment request. The HACP who administers the contract will retain a copy of the worksheet and any other records necessary to demonstrate how the OCAF was used to make rent adjustments for audit purposes. The approved rent adjustment will go into effect via written notice from the HACP that administers the project to the owner. This notice will constitute an amendment to the rents specified on Exhibit A of the RAD PBV HAP contract. The new rents to owner will take effect on the date of the contract anniversary.

### **Rent Decrease**

Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

### **18-VII.C. UTILITY ALLOWANCES [Notice PIH 2019-23; RAD PBV Quick Reference Guide 106/1420]**

When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The CHAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, a PHA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract.

After conversion, the PHA that administers the contract must maintain the utility allowance schedule. ~~the~~ The PHA may either maintain a utility allowance schedule for tenant-paid utilities in accordance with standard PBV and HCV utility allowance regulations at 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.517 respectively, or ~~The the~~ PHA may instead, ~~however~~, apply site specific utility allowances. HUD waived the requirement for the standard PBV program that the HCV utility allowance be used. If a site-specific utility allowance is used, the utility allowance is applicable to non-RAD PBV units in the project and is calculated consistent with Notice H 2015-04.

Each family transitions to the new utility allowance at their first recertification following conversion.

### PHA Policy

The PHA will use the HCV utility allowance schedule for the RAD PBV developments.

## **18-VII.D. REASONABLE RENT [24 CFR 983.303]**

At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by the PHA, except rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

### **How to Determine Reasonable Rent**

The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, the PHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

### ***Comparability Analysis***

For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by the PHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

### **PHA-Owned Units**

For PHA-owned units, the amount of the reasonable rent must be determined by an independent entity approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to the PHA and to the HUD field office where the project is located.

## **PART VIII: PAYMENTS TO OWNER**

### **18-VIII.A. HOUSING ASSISTANCE PAYMENTS**

During the term of the HAP contract, the PHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.

Except for discretionary vacancy payments, the PHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

The amount of the housing assistance payment by the PHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

## **18-VIII.B. VACANCY PAYMENTS [24 CFR 983.352]**

If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

### **HACP Policy**

If the HACP determines that the owner is responsible for a vacancy and as a result is not entitled to the keep the housing assistance payment, the HACP will notify the landlord of the amount of housing assistance payment that the owner must repay. The HACP will require the owner to repay the amount owed in accordance with the policies in Section 16-IV.B.

At the discretion of the PHA, the HAP contract may provide for vacancy payments to the owner. The PHA may only make vacancy payments if:

The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);

The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;

The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and

The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.

The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payment.

### **HACP 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 HACP of the vacancy in accordance with the policy in Section 18-V.G. regarding filling vacancies.

In order for a vacancy payment request to be considered, it must be made within ten (10) business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and the HACP may require the owner to provide documentation to support the request. If the owner does not provide the information requested by the HACP within ten (10) business days of the HACP's request, no vacancy payments will be made.

## **18-VIII.C. TENANT RENT TO OWNER [24 CFR 983.353; Notice PIH 2019-23]**

The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by the PHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in the PHA notice to the family and owner.

The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by the PHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess payment to the tenant.



## Initial Certifications [Notice PIH 2019-23]

For the initial certification, the PHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate HAP and tenant rent for the PBV program. The PHA will use this amount until the effective date of the earlier of the family's first regular or interim recertification following the conversion. At that point, the PHA will use the family's TTP based on the recertification and the applicable utility allowance (HCV or RAD PBV site-based, as applicable) to determine PBV HAP and tenant rent. Any non-RAD PBV units located in the same project are subject to the same requirements.

## Tenant and PHA Responsibilities

The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by the PHA.

Likewise, the PHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. The PHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. The PHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

## Utility Reimbursements

If the amount of the utility allowance exceeds the total tenant payment, the PHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero (0).

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.

## HACP Policy

The HACP will make utility reimbursements directly to the family.

## 18-VIII.D. PHASE-IN OF TENANT RENT INCREASES [Notice PIH 2019-23; PHA Asset Repositioning "Phase-in of Tenant Rents" Webinar]

For in-place tenants, if the amount the tenant would pay for rent and utilities (TTP) would increase by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over three (3) years. To implement this provision, HUD is waiving section 3(a)(1) of the 1937 Act, as well as 24 CFR 983.3 (definition of *total tenant payment (TTP)*) only to the extent necessary to allow for the phase-in of tenant rent increases. For families who were on EID at the time of conversion to RAD PBV, upon the expiration of the EID, the rent adjustment is not subject to rent phase-in.

The PHA must communicate this policy in writing to affected residents. Any non-RAD PBV units located in the same covered project are subject to the terms of the phase-in provisions.

## HACP Policy

The HACP will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV. The HACP will implement a three (3) year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or \$25 purely as a result of the conversion as follows:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 33 percent of the difference between the most recently paid TTP and the currently calculated PBV TTP. (If the family was paying flat rent immediately prior to conversion, the HACP will use the flat rent amount to calculate the phase-in for Year 1.)
- Year 2: Year 2 annual recertification and any interim recertification: 50 percent of the difference between the most recently paid TTP and the currently calculated PBV TTP
- Year 3: Year 3 annual recertification and all subsequent recertifications: Full calculated TTP

Once the standard TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward.

If the family's income falls during the phase-in period such that the currently calculated PBV TTP falls below the amount that would otherwise be phased-in rent, the family pays the currently calculated PBV TTP and the phase-in ends.

The HACP will communicate the HACP's phase-in policy in writing to the family at the time the HACP first determines that the family qualifies for a rent phase-in. Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

## **18.VIII.E. OTHER FEES AND CHARGES [24 CFR 983.354]**

### **Meals and Supportive Services**

With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

### **Other Charges by Owner**

The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

## **CHAPTER 19: SPECIAL PURPOSE VOUCHERS**

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### **INTRODUCTION**

Special purpose vouchers are specifically funded by Congress in separate appropriations from regular HCV program funding in order to target specific populations. Special purpose vouchers include vouchers for the following programs:

- Family Unification Program (FUP)
- Foster Youth to Independence (FYI) program
- Veterans Affairs Supportive Housing (VASH)
- Mainstream
- Non-Elderly Disabled (NED)
- Emergency Housing Vouchers (EHV)
- Mobility Demonstration Vouchers (MDV)
- Stability Voucher program

### **HACP Policy**

The HACP administers the following types of special-purpose vouchers:

- Family Unification Program (FUP)
- Veterans Affairs Supportive Housing (VASH)
- Mainstream
- Emergency Housing Vouchers (EHV)
- Mobility Demonstration Vouchers (MDV)

This chapter describes HUD regulations and PHA policies for administering special-purpose vouchers. The policies outlined in this chapter are organized into five (5) sections, as follows:

Part I: Family Unification Program (FUP)

Part II: Veterans Affairs Supportive Housing (VASH)

Part III: Mainstream Voucher Program

Part IV: Emergency Housing Vouchers (EHV)

Part V: Mobility Demonstration Vouchers (MDV)

Except as addressed by this chapter and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to special-purpose vouchers.

## **PART I: FAMILY UNIFICATION PROGRAM (FUP)**

### **19-I.A. PROGRAM OVERVIEW [Fact Sheet, Housing Choice Voucher Program Family Unification Program (FUP)]**

#### Overview

The Family Unification Program (FUP) was authorized by Congress in 1990 to help preserve and reunify families. PHAs that administer the program provide vouchers to two different populations—FUP families and FUP youth.

Families eligible for FUP are families for whom the lack of adequate housing is a primary factor in:

- The imminent placement of the family’s child or children in out-of-home care; or
- The delay in the discharge of the child or children to the family from out-of-home care.

There is no time limitation on FUP family vouchers, and the family retains their voucher as long as they are HCV-eligible. There is no requirement for the provision of supportive services for FUP family vouchers.

- Youth eligible for FUP are those who:
- Are at least 18 years old and not more than 24 years of age;
- Have left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act at age 16 and older; and
- Are homeless or at risk of becoming homeless.

FUP youth vouchers are limited by statute to a period between thirty-six (36) and sixty (60) months of housing assistance. Supportive services must also be provided to FUP-eligible youth by the Public Child Welfare Agency (PCWA) or by another agency or organization under contract with the PCWA for the period of time defined in the notice or Notice of Funding Availability/Opportunity (NOFO) for which funding was made available.

PHAs that wish to administer FUP vouchers must apply to HUD by submitting an application under an active Notice of Funding Opportunity (NOFO). While the FUP program is administered in accordance with HCV regulations, the FUP NOFOs issued by HUD provide specific program information and requirements.

In order to administer the program, the PHA must also form a partnership with a local PCWA responsible for determining whether the family or youth meets FUP eligibility requirements and referring them to the PHA. Once the referral is received, the PHA is responsible for placing the FUP family or youth on the PHA’s waiting list and determining whether they are eligible to receive assistance under the PHA’s HCV program.

#### **Assigning Vouchers [FUP FAQs]**

The PHA may, but is not required to, assign a specific number or percentage of FUP vouchers for FUP youths and FUP families. Unless the PHA assigns a specific number or percentage of FUP vouchers to a designated FUP population, the PHA must serve any referrals (youths or families) that meet all program eligibility requirements up to the PHA’s designated FUP program size.

## **HACP Policy**

The HACP has designated fifty (50) FUP vouchers for families and twenty-seven (27) FUP vouchers for youths. The HACP will serve all referrals that meet program eligibility requirements, up to the PHA's FUP voucher allocation.

## **19-I.B. PUBLIC CHILD WELFARE AGENCY (PCWA)**

Families and youth do not apply directly to the PHA for FUP vouchers. They are instead referred by a PCWA with whom the PHA has entered into a Memorandum of Understanding (MOU). The partnering PCWA initially determines whether the family or youth meets the FUP program eligibility requirements listed in 19-I.C. and 19-I.D. and then refers those families or youths to the PHA.

HUD strongly encourages PHAs and PCWAs to make decisions collaboratively on the administration of the program and to maintain open and continuous communication. The PCWA must have a system for identifying FUP-eligible youth within the agency's caseload and for reviewing referrals from a Continuum of Care (COC) if applicable.

## **PHA Policy**

The PHA has entered into an MOU with the following partnering organizations *Allegheny County Department of Human Services*.

## **Supportive Services**

The PCWA must provide supportive services for the period of time defined in the notice or NOFA/O for which the funding was made available to all FUP-eligible youth regardless of their age. The MOU between the PHA and the PCWA should identify the period of time in which supportive services will be provided.

## **HACP Policy**

The PCWA will provide supportive services for all FUP youth for a period of 36 months.

Supportive services may be provided to FUP-eligible youth by the PCWA or by another agency or organization under agreement or contract with the PCWA, including the PHA. The organization providing the services and resources must be identified in the MOU. The following services must be offered:

- Basic life skills information or counseling on money management, use of credit, housekeeping, proper nutrition or meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);
- Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance or referrals for assistance on security deposits, utility hook-up fees, and utility deposits;
- Providing such assurances to owners of rental property as are reasonable and necessary to assist a FUP-eligible youth to rent a unit with a FUP voucher;
- Job preparation and attainment counseling (where to look and how to apply, dress, grooming, relationships with supervisory personnel, etc.); and
- Educational and career advancement counseling regarding attainment of general equivalency diploma (GED), or attendance or financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

## HACP Policy

Additional supportive services will not be offered.

A FUP-eligible youth cannot be required to participate in these services as condition of receipt of the FUP voucher.

### 19-I.C. FUP FAMILY VOUCHER ELIGIBILITY CRITERIA

FUP family assistance is reserved for eligible families that the PCWA has certified are a family for whom a lack of adequate housing is a primary factor in:

- The imminent placement of the family's child or children in out-of-home care, or
- The delay in the discharge of the child or children to the family from out-of-home care.

Lack of adequate housing means the family meets any one of the following conditions:

- Living in substandard housing, which refers to a unit that meets any one of the following conditions:
  - Does not have operable indoor plumbing
  - Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth
  - Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth
  - Does not have electricity, or has inadequate or unsafe electrical service
  - Does not have a safe or adequate source of heat
  - Should, but does not, have a kitchen
  - Has been declared unfit for habitation by an agency or unit of government, or in its present condition otherwise endangers the health, safety, or well-being of the family or youth
  - Has one or more critical defects, or a combination of intermediate defects in sufficient number or to the extent that it requires considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair, or from serious damage to the structure
- Being homeless as defined in 24 CFR 578.3
- Living in a unit where the presence of a household member with certain characteristics (i.e., conviction for certain criminal activities) would result in the imminent placement of the family's child or children in out-of-home care, or the delay in the discharge of the child or children to the family from out-of-home care
- Living in housing not accessible to the family's disabled child or children due to the nature of the disability
- Living in an overcrowded unit, which is defined as living in a unit where one of the following conditions has been met:
  - The family is separated from its child or children and the parents are living in an otherwise standard housing unit, but, after the family is reunited, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or



- The family is living with its child or children in a unit that is overcrowded for the entire family and this overcrowded condition may result, in addition to other factors, in the imminent placement of its child or children in out-of-home care.
- For purposes of this definition, the determination as to whether the unit is overcrowded is made in accordance with the PHA subsidy standards in Chapter 5, Part III of this policy.

Since HUD does not define *imminent placement*, the partnering PCWA may use its discretion to determine whether the potential out of home placement of the family's child or children is imminent [FUP FAQs].

## **19-I.D. FUP YOUTH VOUCHER ELIGIBILITY CRITERIA**

While FUP family vouchers operate as regular HCVs after the family is referred from the PCWA, there are several aspects of the FUP youth vouchers that make them distinct from the FUP family vouchers and from regular HCVs.

### **Eligibility Criteria**

A FUP-eligible youth is a youth the PCWA has certified:

- Is at least 18 years old and not more than 24 years of age (has not yet reached their 25th birthday);
  - The FUP youth must be no more than 24 years old at the time the PCWA certifies them as eligible and at the time of HAP contract execution.
- Has left foster care or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act;
  - Foster care placement can include, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes in accordance with 24 CFR 5.576.
- Is homeless or at risk of becoming homeless at age 16 or older;
  - At risk of being homeless is fully defined at 24 CFR 576.2.
    - This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution).
    - Therefore, youth being discharged from an institution may be eligible for a FUP voucher [FUP FAQs].
- Has an annual income at or below 30 percent of area median income; and
- Does not have sufficient resources or support networks (e.g., family, friends, faith-based or other social networks) immediately available to prevent them from moving to a supervised publicly or privately operated shelter designed to provide temporary living arrangements.

## **19-I.E. ASSISTANCE PERIOD [FR Notice 1/24/22]**

### **Maximum Assistance Period**

Although there is no time limit on FUP family vouchers, FUP youth vouchers are limited by statute. Unless the FUP youth meets an exception outlined below, after thirty-six (36) months of assistance, the FUP youth voucher must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the thirty-six (36) month limitation.

If the FUP youth does meet the requirements outlined below, the statutory limit on FUP assistance is a total of sixty (60) months of FUP voucher assistance [FR Notice 1/24/22].

### **Extension of Assistance**

FUP youth who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to twenty-four (24) months beyond the thirty-six (36) month time limit (for a total of sixty (60) months of assistance).

While FUP youth cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional twenty-four (24) months. A FUP youth must accept an FSS slot if it is offered to them prior to the thirty-six (36) month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

### **Statutory Exceptions**

A FUP youth will be entitled to receive an extension of assistance for up to twenty-four (24) months beyond the thirty-six (36) month time limit without participating in the PHA's FSS program if they certify that they meet one (1) of the exceptions below:

- The FUP youth is a parent or other household member responsible for the care of a dependent child under the age of six (6) or for the care of an incapacitated person.

#### **HACP Policy**

The HACP defines an *incapacitated person* as an adult whose ability to receive and evaluate information effectively and communicate decisions in any way is impaired to such a significant extent that he is partially or totally unable to manage his financial resources or to meet essential requirements for his physical health and safety [Title 20 Chapter 55, Subchapter A, § 5501].

The HACP will apply this exception in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a HACP-provided form. This certification is the only documentation that the FUP youth must submit.

The child or incapacitated person is not required to reside in the household in order for the youth to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part-time may qualify the youth for this exception.

- The FUP youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

#### **HACP Policy**

The HACP will define *regular and active participation* in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a HACP-provided form. This certification is the only documentation that the FUP youth must submit.

- The FUP youth is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

### **HACP Policy**

The HACP will apply this requirement in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with statutory requirements.

The FUP youth will be required to self-certify that they meet this exception on a HACP-provided form. This certification is the only documentation that the FUP youth must submit.

A FUP youth that meets one of the above exceptions must still be offered an opportunity to enroll in the PHA's FSS program (if it is available to them) and receive any supportive services available to FUP youth. A FUP youth may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

### **Education, Workforce Development, or Employment Activities**

If a PHA that carries out an FSS program is unable to offer a FUP youth an FSS slot during their first 36 months of receiving FUP youth assistance, the youth is considered to have been "unable to enroll" in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

- The youth was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

### **PHA Policy**

The HACP will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate's degree, bachelor's degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10-16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment.

- The youth was enrolled in an *institution of higher education*, as such term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

### **HACP Policy**

Youth must be enrolled in education activities on at least a half-time basis, as defined by the institution that they attend. However, the HACP may make exceptions to this requirement if the youth is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where the youth is enrolled.

- The youth was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102). The term *career pathway* means a combination of rigorous and high-quality education, training, and other services that:
  - Aligns with the skill needs of industries in the economy of the state or regional economy involved;
  - Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) (referred to individually in this Act as an apprenticeship, except in section 3226 of this title);
  - Includes counseling to support an individual in achieving the individual’s education and career goals;
  - Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
  - Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;
  - Enables an individual to attain a secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential; and
  - Helps an individual enter or advance within a specific occupation or occupational cluster.
- The youth was employed.

### **HACP Policy**

The HACP will consider the youth to be employed if they work a minimum of twenty (20) hours per week. The HACP may make exceptions to this requirement if the youth’s hours are reduced due to circumstances beyond their control or the youth must temporarily reduce their work hours due to a verified family emergency.

### **FSS Enrollment at Twenty-Four (24) Months**

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first twenty-four (24) months of FUP assistance, HUD encourages the PHA to remind the youth at the twenty-four (24) month reexamination of the education, workforce development, and employment requirements described above so that the youth has enough time to meet these requirements prior to the expiration of the thirty-six (36) month time period for FUP assistance.

## **HACP Policy**

If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first twenty-four (24) months of FUP assistance, the HACP will remind the youth at their second regular reexam of the education, workforce development, and employment requirements described above.

### **FSS Enrollment Between Thirty-Six (36) and Forty-Eight (48) Months**

If an FSS slot becomes available between the thirty-six (36) month and forty-eight (48) month mark:

- The PHA must offer the slot to a FUP youth who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the youth previously declined an FSS slot because they met one of the statutory exceptions).
- The PHA must work with the youth to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the youth is engaged in and any statutory exceptions that apply to the youth, as well as the remaining time on their voucher.
- If the FUP youth accepts the FSS slot, the PHA must work with the youth to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

If the FUP youth is offered an FSS slot prior to the thirty-six (36) month mark, the youth:

- Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the thirty-six (36) month time period (unless they meet one of the statutory exceptions described above).
- Will not be considered to have been “unable to enroll” in the FSS program as described above, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

### **FSS Enrollment After Forty-Eight (48) Months**

The PHA may, but is not required to, offer a FUP youth an FSS slot that becomes available between the forty-eight (48) month mark and the sixty (60) month mark, since the youth will have already received their second and final extension.

## **HACP Policy**

If an FSS slot becomes available between the forty-eight (48) and the sixty (60) month mark month marks, the PHA will not offer the FSS slot to a FUP youth.

### **Extensions of Assistance**

At the thirty-six (36) month and forty-eight (48) month reexamination, the PHA must extend FUP youth assistance if the youth is participating in and in compliance with the FSS program as long as the youth is still eligible for the HCV program.

In any case, the FUP youth cannot receive more than a total of sixty (60) months of FUP youth voucher assistance, even if the FSS Contract of Participation time period extends beyond the voucher sixty (60) month mark.

## **No FSS Program or Unable to Enroll in FSS**

If a PHA does not carry out an FSS program or the FUP youth has been unable to enroll in the program during the first thirty-six (36) months of receiving FUP assistance, the FUP youth is entitled to receive an extension of assistance for up to two successive twelve (12) month periods beyond the thirty-six (36) month time limit provided that the youth engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the twelve (12) month period preceding each extension. In order to meet the nine (9) months out of the preceding twelve (12) months requirement, the youth may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

## **Verification Prior to Annual Reexam**

In order to provide an extension of assistance, the PHA must verify compliance with the above requirements at the end of the thirty-six (36) month time period and the forty-eight (48) month time periods. The PHA does not need to verify compliance with these requirements at the end of the sixty (60) month time period since the maximum length of assistance is sixty (60) months.

To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, the PHA must provide the FUP youth written notification informing them that they may receive an extension of their FUP assistance and providing instructions on how the youth may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the thirty-six (36) month or forty-eight (48) month time periods, as applicable, to allow the FUP youth to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for the PHA to conduct an annual reexamination prior to the expiration of the FUP assistance.

## **HACP Policy**

The HACP will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the thirty-six (36) and the forty-eight (48) month time periods prior to the FUP youth's scheduled annual reexamination. The HACP will not verify compliance at the end of the sixty (60) months time period.

The HACP will provide each FUP youth on the HACP's program with a written notification informing them that they may receive an extension of their FUP assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least sixty (60) days prior to their scheduled annual reexam date. When necessary, the HACP will provide this notification in a format accessible to FUP youth with disabilities and in a translated format for FUP youth with limited English proficiency in accordance with Chapter 2.

The HACP will use the following verification methods to verify a FUP youth's eligibility for voucher extensions:

To verify compliance with the FSS requirement, the HACP will examine its records to confirm, or obtain confirmation from the HACP's FSS program staff, that the FUP youth participant is in compliance with FSS program requirements and has not been terminated from the FSS program.

To meet the education, workforce development, or employment requirement, the HACP will verify that the FUP youth was engaged in at least one education, workforce development, or employment activity for at least nine months of the twelve (12) month period immediately preceding the end of thirty-six (36) month or forty-eight (48) month time period, as applicable.



Due to the timing of when the HACP verifies compliance and conducts the annual reexamination, the FUP youth may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the thirty-six (36) month or forty-eight (48) month time period. In such cases, the FUP/FYI youth will still be considered to have met the requirements.

In order for the FUP youth to meet one of the statutory exceptions described above, the youth must submit a certification to the HACP that they meet one of these exceptions. This certification is the only documentation that the FUP youth must submit in order to demonstrate that they meet one of the statutory exceptions.

A FUP youth who received an extension of voucher assistance at the end of the thirty-six (36) month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the forty-eight (48) month time period. The FUP youth may demonstrate that they meet a different condition in order to receive an extension of their assistance.

If the PHA determines that the youth meets one of the statutory conditions, the PHA would then conduct an annual reexamination. If the annual reexamination determines that the youth is still eligible for the HCV program, the PHA must provide the FUP youth the extension of voucher assistance.

### **Termination of Assistance for Failure to Meet Conditions**

Failure of the FUP youth to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FUP assistance prior to the annual reexam.

If the FUP youth does not meet any of the conditions described in in this chapter, the youth is subject to the statutory time limit of thirty-six (36) months or the time limit of any extension that the youth has already received, and the FUP youth voucher must be terminated once the youth reaches this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the youth entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the youth, not the number of months that the youth is in the FUP youth program. Prior to termination, the PHA must offer the FUP youth the opportunity to request an informal hearing, in accordance with Chapter 16.

## **19-I.F. REFERRALS AND WAITING LIST MANAGEMENT**

### **Referrals**

The PCWA must establish and implement a system to identify FUP-eligible families and youths within the agency's caseload and make referrals to the PHA. The PCWA must certify that the FUP applicants they refer to the PHA meet FUP eligibility requirements. The PHA is not required to maintain full documentation that demonstrates the family's or youth's FUP eligibility as determined by the PCWA but should keep the referral or certification from the PCWA.

### **HACP Policy**

As part of the MOU, the HACP and PCWA have identified staff positions to serve as lead FUP liaisons. These positions will be responsible for transmission and acceptance of FUP referrals. The PCWA must commit sufficient staff and resources to ensure eligible families and youths are identified and determined eligible in a timely manner.

When FUP vouchers are available, the HACP liaison responsible for acceptance of referrals will contact the PCWA FUP liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than ten (10) business days from the date the PCWA receives this notification, the PCWA liaison will provide the HACP with a list of eligible referrals include the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating the youth or family is FUP-eligible.

The HACP will maintain a copy of the referral or certification from the PCWA in the participant's file along with other eligibility paperwork.

A PHA must serve any referrals (youths or families) that meet all program eligibility requirements. If a PHA determines that it has received a sufficient number of referrals from the PCWA so that the PHA will be able to lease all FUP vouchers awarded, the PHA may request that the PCWA suspend transmission of referrals. If the PHA determines that additional referrals will be needed after it has made such a request, the PHA may request that the PCWA resume transmission of referrals [Notice PIH 2011-52].

### **Waiting List Placement**

A family that is already participating in the regular HCV program cannot be transferred to a FUP voucher.

Once a referral is made, the PHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on the PHA's HCV waiting list. Applicants already on the PHA's HCV waiting list retain the order of their position on the list. Applicants not already on the PHA's HCV waiting list must be placed on the HCV waiting list.

If the PHA's HCV waiting list is closed, the PHA must open its HCV waiting list in order to accept new FUP applicants. If necessary, the PHA may open its waiting list solely for FUP applicants, but this information must be included in the PHA's notice of opening its waiting list (see section 4-II.C., Opening and Closing the Waiting List of this administrative plan).

### **HACP Policy**

Within ten (10) business days of receiving the referral from the PCWA, the HACP will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

Referrals who are already on the list will retain their position and the list will be notated to indicate the family or youth is FUP-eligible.

For those referrals not already on the waiting list, the HACP will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, the HACP will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FUP-eligible.

### **Waiting List Selection**

The PHA selects FUP-eligible families or youths based on the PHA's regular HCV waiting list selection policies in Chapter 4, including any preferences that may apply.

## **19-I.G. PHA HCV ELIGIBILITY DETERMINATION**

Once a FUP-eligible family or youth is selected from the HCV waiting list, the PHA must determine whether the family or youth meets HCV program eligibility requirements. Applicants must be eligible under both FUP family or youth eligibility requirements, as applicable, and HCV eligibility requirements as outlined in Chapter 3 of this policy.

The PCWA may, but is not obligated to, provide information to the PHA on the family's criminal history.

### **HACP Policy**

Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to the HACP.

The HACP will consider the information in making its eligibility determination in accordance with the PHA's policies in Chapter 3, Part III.

### **Additional FUP Eligibility Factors [FUP FAQs]**

For FUP family vouchers, the family must remain FUP-eligible thorough lease-up.

- If, after a family is referred by the PCWA but prior to issuing a family FUP voucher, the PHA discovers that the lack of adequate housing is no longer a primary factor for the family not reunifying, the FUP voucher may not be issued to the family.
- Similarly, if the FUP voucher has already been issued before the PHA discovers that the reunification will not happen, but the family has not yet leased up under the voucher, the PHA must not execute the HAP contract, as the family is no longer FUP-eligible.

FUP-eligible youth must be no more than twenty-four (24) years old both at the time of PCWA certification and at the time of the HAP execution. If a FUP youth is twenty-four (24) at the time of PCWA certification but will turn twenty-five (25) before the HAP contract is executed, the youth is no longer eligible for a FUP youth voucher.

### **HACP Policy**

Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 3 or any eligibility criteria listed in this section will be notified by the HACP in writing following policies in Section 3-III.F., including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

## **19.I.H. LEASE UP [FR Notice 1/24/22]**

Once the PHA determines that the family or youth meets HCV eligibility requirements, the family or youth will be issued a FUP voucher in accordance with PHA policies.

During the family briefing, PHAs must inform the FUP youth of:

- The extension of assistance provisions and requirements;
- The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided the PHA has an FSS program); and
- Supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FUP youth assistance.

## **HACP Policy**

Eligible applicants will be notified by the HACP in writing of the following policies in Section 3-III.F. of this administrative plan. FUP families will attend a standard HCV briefing in accordance with HACP policies in Part I of Chapter 5 of this administrative plan. FUP youth will be briefed with other HCV applicants. The HACP will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 5 but will also provide an explanation of the required items listed above, as well as discussing supportive services offered by the PCWA.

For both FUP youth and FUP families, vouchers will be issued in accordance with HACP policies in Chapter 5 Part II, except that the HACP will consider one additional thirty (30) day extension beyond the first automatic extension for any reason, not just those listed in the policy in Section 5-II.E.

Once the family or youth locate a unit, the PHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and the PHA's policies (including, but not limited to: HQS inspection, determination of rent reasonableness, etc.).

## **19-I.I. TERMINATION OF ASSISTANCE**

### **General Requirements**

With the exception of terminations of assistance for FUP youth after the statutorily required time period, terminations of FUP assistance are handled in the same way as the regular HCV program. Termination of a FUP voucher must be consistent with regulations for termination in 24 CFR Part 982, Subpart L and be in compliance with PHA policies (Chapter 12).

If the person who qualifies for the FUP voucher passes away, the family retains the FUP voucher. In the case of a FUP-youth voucher, assistance will terminate after the statutorily required time period, even if the FUP-eligible youth is no longer included in the household.

If the person who qualifies for the FUP voucher moves, the remaining family members may keep the FUP voucher based on PHA policy (see administrative plan, Section 3-I.C., Family Breakup and Remaining Member of Tenant Family).

### **FUP Family Vouchers**

If parents lose their parental rights or are separated from their children after voucher lease-up (or their children reach adulthood), the family is still eligible to keep their FUP assistance, as the regulations do not permit HCV termination for a family losing parental rights or the children reaching adulthood. However, the PHA may transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household.

## **HACP Policy**

The HACP will transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household and there is no prospect of any minor child being returned to the household.

If the HACP has no regular HCV vouchers available at the time this determination is made, including if no vouchers are available due to lack of funding, the HACP will issue the family the next available regular HCV voucher after those being issued to families residing in PBV units claiming Choice Mobility.

## **FUP Youth Vouchers**

A PHA cannot terminate a FUP youth's assistance for noncompliance with PCWA case management, nor may the PHA terminate assistance for a FUP youth for not accepting services from the PCWA.

The PHA may not transfer the assistance of a FUP youth voucher holder to regular HCV assistance upon the expiration of the statutorily required time period. However, the PHA may issue a regular HCV to FUP youth if they were selected from the waiting list in accordance with PHA policies and may also adopt a preference for FUP youth voucher holders who are being terminated for this reason.

## **HACP Policy**

The HACP will not provide a selection preference on the HACP's HCV waiting list for FUP youth who are terminated due to the time limit on assistance.

Upon the expiration of the statutorily required time period, a FUP youth voucher holder who has children and who lacks adequate housing may qualify for a FUP family voucher provided they are referred by the PCWA as an eligible family and meet the eligibility requirements for the PHA's HCV program.

## **9-I.J. FUP PORTABILITY**

Portability for a FUP family or youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for a FUP family or youth for reasons other than those specified in the HCV program regulations, as reflected in Chapter 10 of the administrative plan.

A FUP family or youth does not have to port to a jurisdiction that administers FUP.

If the receiving PHA administers the FUP voucher on behalf of the initial PHA, the voucher is still considered a FUP voucher regardless of whether the receiving PHA has a FUP program.

If the receiving PHA absorbs the voucher, the receiving PHA may absorb the incoming port into its FUP program (if it has one) or into its regular HCV program (if the receiving PHA has vouchers available to do so) and the family or youth become regular HCV participants. In either case, when the receiving PHA absorbs the voucher, a FUP voucher becomes available to the initial PHA.

## **Considerations for FUP Youth Vouchers**

If the voucher is a FUP youth voucher and remains such upon lease-up in the receiving PHA's jurisdiction, termination of assistance must still take place once the youth has received assistance for the statutorily required time period. If the receiving PHA is administering the FUP youth voucher on behalf of the initial PHA, the two PHAs must work together to initiate termination upon expiration of the statutorily required time period.

## **19-I.K. PROJECT-BASING FUP VOUCHERS [Notice PIH 2017-21; FR Notice 1/24/22]**

The PHA may project-base FUP vouchers without HUD approval in accordance with Notice PIH 2017-21, FR Notice 1/24/22, and all statutory and regulatory requirements for the PBV program. Project-based FUP vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

The PHA may limit PBVs to one (1) category of FUP-eligible participants (families or youth) or a combination of the two (2).

While FUP vouchers can be used for either families or youth, a PBV unit may only be counted towards the PHA's 10 percent exception authority under the program cap and the project's income-mixing requirement if the FUP PBV assistance is provided on behalf of an eligible youth. The PHA must amend its administrative plan to include the limitation of these FUP PBV units to eligible youth.

### HACP Policy

The HACP will not project-base FUP vouchers. All FUP vouchers will be used to provide tenant-based assistance.

## PART II: VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM

### 19-II.A. OVERVIEW

Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans. The Veterans Affairs Supportive Housing (VASH) program combines HCV rental assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at VA medical centers (VAMCs) and Community-Based Outpatient Clinics (CBOCs), or through a designated service provider (DSP) as approved by the VA Secretary. Eligible families are homeless veterans and their families that agree to participate in VA case management and are referred to the VAMC's partner PHA for HCV assistance. The VAMC or DSP's responsibilities include:

- Screening homeless veterans to determine whether they meet VASH program participation criteria;
- Referring homeless veterans to the PHA;
- The term *homeless veteran* means a veteran who is homeless (as that term is defined in subsection (a) or (b) of Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302)). See 38 U.S.C. 2002.
- Providing appropriate treatment and supportive services to potential VASH participants, if needed, prior to PHA issuance of a voucher;
- Providing housing search assistance to VASH participants;
- Identifying the social service and medical needs of VASH participants, and providing or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and
- Maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

VASH vouchers are awarded noncompetitively based on geographic need and PHA administrative performance. Eligible PHAs must be located within the jurisdiction of a VAMC and in an area of high need based on data compiled by HUD and the VA. When Congress funds a new allocation of VASH vouchers, HUD invites eligible PHAs to apply for a specified number of vouchers.



Generally, the HUD-VASH program is administered in accordance with regular HCV program requirements. However, HUD is authorized to waive or specify alternative requirements to allow PHAs to effectively deliver and administer VASH assistance. Alternative requirements are established in the HUD-VASH Operating Requirements, which were originally published in the Federal Register on May 6, 2008, and updated September 27, 2021. Unless expressly waived by HUD, all regulatory requirements and HUD directives regarding the HCV program are applicable to VASH vouchers, including the use of all HUD-required contracts and other forms, and all civil rights and fair housing requirements. In addition, the PHA may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program.

The VASH program is administered in accordance with applicable Fair Housing requirements since civil rights requirements cannot be waived under the program. These include applicable authorities under 24 CFR 5.105(a) and 24 CFR 982.53 including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination Act and all PHA policies as outlined in Chapter 2 of this document.

When HUD-VASH recipients include veterans with disabilities or family members with disabilities, reasonable accommodation requirements in Part II of Chapter 2 of this policy apply.

### **19-II.B. REFERRALS [FR Notice 9/27/21 and HUD-VASH Qs and As]**

VAMC case managers will screen all families in accordance with VA screening criteria and refer eligible families to the PHA for determination of program eligibility and voucher issuance. The PHA has no role in determining or verifying the veteran's eligibility under VA screening criteria, including determining the veteran's homelessness status. The PHA must accept referrals from the partnering VAMC and must maintain written documentation of referrals in VASH tenant files. Upon turnover, VASH vouchers must be issued to eligible veteran families as identified by the VAMC.

#### **HACP Policy**

In order to expedite the screening process, the HACP will provide all forms and a list of documents required for the VASH application to the VAMC. Case managers will work with veterans to fill out the forms and compile all documents prior to meeting with the HACP and submitting an application. When feasible, the VAMC case manager should email or fax copies of all documents to the HACP prior to the meeting in order to allow the HACP time to review them and start a file for the veteran.

After the VAMC has given the HACP a complete referral, the HACP will perform an eligibility screening within five (5) business days of receipt of a VAMC referral.

### **19-II.C. HCV PROGRAM ELIGIBILITY [FR Notice 9/27/21]**

Eligible participants are homeless veterans and their families who agree to participate in case management from the VAMC.

- A *VASH Veteran* or *veteran family* refers to either a single veteran or a veteran with a household composed of two or more related persons. It also includes one or more eligible persons living with the veteran who are determined to be important to the veteran's care or well-being.
- A veteran for the purpose of VASH is a person whose length of service meets statutory requirements, and who served in the active military, naval, or air service, was discharged or released under conditions other than dishonorable, and is eligible for VA health care.

Under VASH, PHAs do not have authority to determine family eligibility in accordance with HCV program rules and PHA policies. The only reasons for denial of assistance by the PHA are failure to meet the income eligibility requirements and/or that a family member is subject to a lifetime registration requirement under a state sex offender registration program. Under portability, the receiving PHA must also comply with these VASH screening requirements.

### **Social Security Numbers**

When verifying Social Security numbers (SSNs) for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name and SSN of the individual along with other identifying information of the individual, is acceptable in accordance with Section 7-II.B. of this policy.

In the case of the homeless veteran, the PHA must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of SSN and cannot require the veteran to provide a Social Security card. A VA-issued identification card may also be used to verify the SSN of a homeless veteran.

### **Proof of Age**

The DD-214 or 10-10EZ must be accepted as proof of age in lieu of birth certificates or other PHA-required documentation as outlined in Section 7-II.C. of this policy. A VA-issued identification card may also be used to verify the age of a homeless veteran.

### **Photo Identification**

A VA-issued identification card must be accepted in lieu of another type of government-issued photo identification. These cards also serve as verification of SSNs and date of birth.

### **Income Eligibility**

The PHA must determine income eligibility for VASH families in accordance with 24 CFR 982.201 and policies in Section 3-II.A. If the family is over-income based on the most recently published income limits for the family size, the family will be ineligible for HCV assistance.

While income-targeting does not apply to VASH vouchers, the PHA may include the admission of extremely low-income VASH families in its income targeting numbers for the fiscal year in which these families are admitted.

### **HACP Policy**

While income-targeting requirements will not be considered by the HACP when families are referred by the partnering VAMC, the HACP will include any extremely low-income VASH families that are admitted in its income targeting numbers for the fiscal year in which these families are admitted.

### **Screening**

The PHA may not screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR 982.552 and 982.553 with one exception: the PHAs is still required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. Accordingly, with the exception of denial for registration as a lifetime sex offender under state law and PHA policies on how sex offender screenings will be conducted, PHA policy in Sections 3-III.B. through 3-III.E. do not apply to VASH. The prohibition against screening families for anything other than lifetime sex offender status applies to all family members, not just the veteran.

If a family member is subject to lifetime registration under a state sex offender registration program, the remaining family members may be served if the family agrees to remove the sex offender from its family composition. This is true unless the family member subject to lifetime registration under a state sex offender registration program is the homeless veteran, in which case the family would be denied admission to the program [New HCV GB, HUD-VASH, p. 6].

#### **Denial of Assistance [Notice PIH 2008-37]**

Once a veteran is referred by the VAMC, the PHA must either issue a voucher or deny assistance. If the PHA denies assistance, it must provide the family with prompt notice of the decision and a brief statement of the reason for denial in accordance with Section 3-III.F. Like in the standard HCV program, the family must be provided with the opportunity for an informal review in accordance with policies in Section 3-III.F. In addition, a copy of the denial notice must be sent to the VAMC case manager.

### **19-II.D. CHANGES IN FAMILY COMPOSITION**

#### **Adding Family Members [FR Notice 9/27/21]**

When adding a family member after the family has been admitted to the program, PHA policies in Section 3-II.B. apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and will apply its regular screening criteria in doing so.

#### **Remaining Family Members [HUD-VASH Qs and As]**

If the homeless veteran dies while the family is being assisted, the voucher would remain with the remaining members of the tenant family. The PHA may use one of its own regular vouchers, if available, to continue assisting this family and free up a VASH voucher for another VASH-eligible family. If a regular voucher is not available, the family would continue utilizing the VASH voucher. Once the VASH voucher turns over, however, it must go to a homeless veteran family.

#### **Family Break Up [HUD-VASH Qs and As]**

In the case of divorce or separation, since the set-aside of VASH vouchers is for veterans, the voucher must remain with the veteran. This overrides the PHA's policies in Section 3-I.C. on how to determine who remains in the program if a family breaks up.

### **19-II.E. LEASING [FR Notice 9/27/21]**

#### **Waiting List**

The PHA does not have the authority to maintain a waiting list or apply local preferences for HUD-VASH vouchers. Policies in Chapter 4 relating to applicant selection from the waiting list, local preferences, special admissions, cross-listing, and opening and closing the waiting list do not apply to VASH vouchers.

#### **Exception Payment Standards**

To assist VASH participants in finding affordable housing, especially in competitive markets, HUD allows PHAs to establish a HUD-VASH exception payment standard. PHAs may go up to but no higher than 120 percent of the published area-wide fair market rent (FMR) or small area fair market rent (SAFMR) specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD through the regular waiver process outlined in Notice PIH 2018-16.

### **HACP Policy**

The HACP has requested a waiver from HUD in 2022 to use its higher MTW payment standards and has not received a response.

### **Voucher Issuance**

Unlike the standard HCV program which requires an initial voucher term of at least sixty (60) days, VASH vouchers must have an initial search term of at least one hundred-twenty (120) days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

### **HACP Policy**

All VASH vouchers will have an initial term of one hundred-twenty (120) calendar days plus any other extensions granted to tenant-based voucher holds described in Chapter 5.

The family must submit a Request for Tenancy Approval within the voucher term plus any extensions.

The PHA must track issuance of HCVs for families referred by the VAMC or DSP in PIC as required in Notice PIH 2011-53.

### **Initial Lease Term**

Unlike in the standard the HCV program, VASH voucher holders may enter into an initial lease that is for less than twelve (12) months. Accordingly, PHA policy in Section 9-I.E., Term of Assisted Tenancy, does not apply.

### **Ineligible Housing [FR Notice 6/18/14]**

Unlike in the standard HCV program, VASH families are permitted to live on the grounds of a VA facility in units developed to house homeless veterans. This applies to both tenant-based assistance and PBV. Therefore, 24 CFR 982.352(a)(5) and 983.53(a)(2), which prohibit units on the physical grounds of a medical, mental, or similar public or private institution, do not apply to VASH for this purpose only. Accordingly, PHA policy in 9-I.D., Ineligible Units, does not apply for this purpose only.

### **HQS Pre-Inspections**

To expedite the leasing process, PHAs may pre-inspect available units that veterans may be interested in leasing in order to maintain a pool of eligible units. If a VASH family selects a unit that passed an HQS inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval (Form HUD-52517), the unit may be approved if it meets all other conditions under 24 CFR 982.305. However, the veteran must be free to select their unit and cannot be steered to these units.

### **HACP Policy**

To expedite the leasing process, the HACP may pre-inspect available vacant units that veterans may be interested in leasing to maintain a pool of eligible units. If a VASH family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within ninety (90) days of the date of the RFTA, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305. The veteran will be free to select their unit.

When a pre-inspected unit is not selected, the HACP will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for both initial and any required reinspections.

## **19-II.F. PORTABILITY [FR Notice 9/27/21 and Notice PIH 2011-53]**

### **General Requirements**

Portability policies under VASH depend on whether the family wants to move within or outside of the initial VA facility's catchment area (the area in which the VAMC or DSP operates). In all cases, the initial VA facility must be consulted prior to the move and provide written confirmation that case management will continue to be provided in the family's new location. VASH participant families may only reside in jurisdictions that are accessible to case management services, as determined by case managers at the partnering VAMC or DSP.

Under VASH, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied. As a result, PHA policies in Section 10-II.B. about nonresident applicants do not apply.

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

### **Portability within the Initial VAMC or DSP's Catchment Area**

A VASH family can move within the VAMC's catchment area as long as case management can still be provided, as determined by the VA. If the initial PHA's partnering VAMC will still provide the case management services, the receiving PHA must process the move in accordance with portability procedures:

- If the receiving PHA has been awarded VASH vouchers, it can choose to either bill the initial PHA or absorb the family if it has a VASH voucher available to do so.
  - If the PHA absorbs the family, the VAMC or DSP providing the initial case management must agree to the absorption and the transfer of case management.
- If the receiving PHA does not administer a VASH program, it must always bill the initial PHA.

### **Portability Outside of the Initial VAMC or DSP's Catchment Area**

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VAMC or DSP to provide case management services, the initial VAMC or DSP must first determine that the VASH family could be served by another VAMS or DSP that is participating in the VASH program, and the receiving PHA has an available VASH voucher.

In these cases, the family must be absorbed by the receiving PHA either as a new admission or as a portability move-in, as applicable. Upon absorption, the initial PHA's VASH voucher will be available to lease to a new VASH-eligible family, and the absorbed family will count toward the number of VASH slots awarded to the receiving PHA.

### **Portability Outside of the Initial VAMC or DSP's Catchment Area under VAWA**

Veterans who request to port beyond the catchment area of the VAMC or DSP where they are receiving case management to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believes they are threatened with imminent harm from further violence by remaining in the unit may port prior to receiving approval from the receiving VAMC or DSP. The initial PHA must follow its emergency transfer plan (see Exhibit 16-3). PHAs may require verbal self-certification or a written request from a participant seeing a move beyond the catchment area of the VAMC or DSP.



The verbal self-certification or written request must include either a statement expressing why the participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same unit or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the ninety (90) day period preceding the participants request for the move.

The participant must still port to a PHA that has a VASH program. If the receiving PHA does not have a VASH voucher available to lease, they may bill the initial PHA until a VASH voucher is available, at which point the porting veteran must be absorbed into the receiving PHA's program.

### **19-II.G. TERMINATION OF ASSISTANCE [FR Notice 9/27/21]**

With the exception of terminations for failure to receive case management, HUD has not established any alternative requirements for termination of assistance for VASH participants. However, prior to terminating VASH participants, HUD strongly encourages PHAs to exercise their discretion under 24 CFR 982.552(c)(2) as outlined in Section 12-II.D. of this policy and consider all relevant circumstances of the specific case. This includes granting reasonable accommodations for persons with disabilities, as well as considering the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination.

VASH participant families may not be terminated after admission for a circumstance or activities that occurred prior to admission and were known to the PHA but could not be considered at the time of admission due to VASH program requirements. The PHA may terminate the family's assistance only for program violations that occur after the family's admission to the program.

#### **Cessation of Case Management**

As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive case management services from the VAMC or DSP. A VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or DSP.

However, a VAMC or DSP determination that the participant family no longer requires case management is not grounds for termination of voucher or PBV assistance. In such a case, at its option, the PHA may offer the family continued assistance through one of its regular vouchers. If the PHA has no voucher to offer, the family will retain its VASH voucher or PBV unit until such time as the PHA has an available voucher for the family.

### **VAWA [FR Notice 9/27/21]**

When a veteran's family member is receiving protection under VAWA because the veteran is the perpetrator of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the victim must continue to be assisted. Upon termination of the perpetrator's VASH assistance, the victim must be given a regular HCV if one is available, and the perpetrator's VASH voucher must be used to serve another eligible veteran family. If a regular HCV is not available, the perpetrator must be terminated from assistance and the victim will continue to use the VASH voucher.



## **19-II.H. PROJECT-BASING VASH VOUCHERS**

### **General Requirements [Notice PIH 2017-21 and FR Notice 9/27/21]**

PHAs are authorized to project-base their tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements provided that the VAMC will continue to make supportive services available. In addition, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV program cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A. Note that VASH supportive services only need to be provided to VASH families receiving PBV assistance in the project, not all families receiving PBV assistance in the project. If a VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit as long as the family resides in the unit.

If the PHA project-bases VASH vouchers, the PHA must consult with the partnering VAMC or DSP to ensure approval of the project or projects. PHAs may project-base VASH vouchers in projects alongside other PBV units and may execute a single HAP contract covering both the VASH PBVs and the other PBVs. The PHA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a HUD set-aside award.

If a VASH family is referred to the PHA and there is an available PBV unit that is not exclusively made available to VASH families, the PHA may offer to refer the family to the owner if allowable under the selection policy for that project, and the owner and PHA may amend the HAP contract to designate the PBV unit as a VASH PBV unit.

The PHA and owner may agree to amend a PBV HAP contract to redesignate a regular PBV unit as a unit specifically designated for VASH families so long as the PHA first consults with the VAMC or DSP. Additionally, the PHA and owner may agree to amend a PBV HAP contract to redesignate a unit specifically designated for VASH families as a regular PBV unit, so long as the unit is not funded through a VASH PBV set-aside award and is eligible for regular PBV (i.e., the unit is not on the grounds of a medical facility and the unit is eligible under the PHA's program and project caps).

Policies for VASH PBV units will generally follow PHA policies for the standard PBV program as listed in Chapter 17, with the exception of the policies listed below.

### **Failure to Participate in Case Management [FR Notice 9/27/21]**

Upon notification by the VAMC or DSP of the family's failure to participate, without good cause, in case management, the PHA must provide the family a reasonable time period to vacate the unit. The PHA must terminate assistance to the family at the earlier of either the time the family vacates or the expiration of the reasonable time period given to vacate.

### **HACP Policy**

Upon notification by the VAMC or DSP that a VASH PBV family has failed to participate in case management without good cause, the HACP will provide written notice of termination of assistance to the family and the owner within ten (10) business days. The family will be given sixty (60) days from the date of the notice to move out of the unit.

The HACP may make exceptions to this sixty (60) day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, the PHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. The PHA may add the removed unit to the HAP contract after the ineligible family vacates the property.

### **Moves [HUD-VASH Qs and As, FR Notice 9/27/21]**

When a VASH PBV family is eligible to move from its PBV unit in accordance with Section 17-VIII.C. of this policy, but there is no other comparable tenant-based rental assistance, the following procedures must be implemented:

- If a VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, the PHA may require a family who still requires case management to wait for a VASH tenant-based voucher for a period not to exceed one hundred-eighty (180) days;
- If a VASH tenant-based voucher is still not available after that period, the family must be allowed to move with its VASH voucher. Alternatively, the PHA may allow the family to move with its VASH voucher without having to meet this one hundred-eighty (180) day period. In either case, the PHA is required to replace the assistance in the PBV unit with one of its regular vouchers, unless the PHA and owner agree to temporarily remove the unit from the HAP contract; and
- If a VASH veteran is determined to no longer require case management, the PHA must allow the family to move with the first available tenant-based voucher if not VASH voucher is immediately available and cannot require the family to wait for a VASH voucher to become available.

## **PART III: MAINSTREAM VOUCHER PROGRAM**

### **19-III.A. PROGRAM OVERVIEW [Notice PIH 2020-01]**

Mainstream vouchers assist non-elderly persons with disabilities and their families in the form of either project-based or tenant-based voucher assistance.

Aside from separate funding appropriations and serving a specific population, Mainstream vouchers follow the same program requirements as standard vouchers. The PHA does not have special authority to treat families that receive a Mainstream voucher differently from other applicants and participants. For example, the PHA cannot apply different payment standards, establish conditions for allowing portability, or apply different screening criteria to Mainstream families.

The Mainstream Voucher Program, (previously referred to as the Mainstream 5-Year program or the Section 811 voucher program) was originally authorized under the National Affordable Housing Act of 1990. Mainstream vouchers operated separately from the regular HCV program until the passage of the Frank Melville Supportive Housing Investment Act of 2010. Funding for Mainstream voucher renewals and administrative fees was first made available in 2012. In 2017 and 2019, incremental vouchers were made available for the first time since the Melville Act (in addition to renewals and administrative fees), and PHAs were invited to apply for a competitive award of Mainstream vouchers under the FY17 and FY19 NOFAs. In 2020, Notice PIH 2020-22 provided an opportunity for any PHA administering an HCV program to apply for Mainstream vouchers noncompetitively, while Notice PIH 2020-09 authorized an increase in Mainstream voucher units and budget authority for those PHAs already awarded Mainstream vouchers under the FY17 and FY19 NOFAs.

Funds for Mainstream vouchers may be recaptured and reallocated if the PHA does not comply with all program requirements or fails to maintain a utilization rate of 80 percent for the PHA's Mainstream vouchers.

### **19-III.B. ELIGIBLE POPULATION [Notice PIH 2020-01 and Notice PIH 2020-22]**

All Mainstream vouchers must be used to serve non-elderly persons with disabilities and their families, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old as of the effective date of the initial HAP contract. The eligible disabled household member does not need to be the head of household.

The definition of person with disabilities for purposes of Mainstream vouchers is the statutory definition under section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

Existing families receiving Mainstream vouchers, where the eligible family member is now age 62 or older, will not "age out" of the program as long as the family was eligible on the day it was first assisted under a HAP contract.

The PHA may not implement eligibility screening criteria for Mainstream vouchers that is different from that of the regular HCV program.

### **19-III.C. PARTNERSHIP AND SUPPORTIVE SERVICES [Notice PIH 2020-01]**

PHAs are encouraged but not required to establish formal and informal partnerships with a variety of organizations that assist persons with disabilities to help ensure eligible participants find and maintain stable housing.

#### **HACP Policy**

The PHA will implement a Mainstream program, in partnership with the State of Pennsylvania Department of Human Services and other local referral agencies.

### **19-III.D. WAITING LIST ADMINISTRATION**

#### **General Waiting List Requirements [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]**

PHAs must not have a separate waiting list for Mainstream voucher assistance since the PHA is required by the regulations to maintain one waiting list for tenant-based assistance [24 CFR 982.204(f)]. All PHA policies on opening, closing, and updating the waiting list, as well as waiting list preferences in Chapter 4, apply to the Mainstream program.

When the PHA is awarded Mainstream vouchers, these vouchers must be used for new admissions to the PHA's program from the waiting list. The PHA must lease these vouchers by pulling the first Mainstream-eligible family from its tenant-based waiting list. PHAs are not permitted to reassign existing participants to the program in order to make regular tenant-based vouchers available. Further, the PHA may not skip over Mainstream-eligible families on the waiting list because the PHA is serving the required number of Mainstream families.

Upon turnover, vouchers must be provided to Mainstream-eligible families. If a Mainstream turnover voucher becomes available, the PHA must determine if the families at the top of the waiting list qualify under program requirements.

#### **Admission Preferences [Notice PIH 2020-01; FY17 Mainstream NOFA; FY19 Mainstream NOFA]**

If the PHA claimed points for a preference in a NOFA application for Mainstream vouchers, the PHA must adopt a preference for at least one of the targeted groups identified in the NOFA.

#### **HACP Policy**

The HACP did not claimed a preference for a targeted group as part of an application for Mainstream vouchers under a NOFA.

#### **19-IV.E. PORTABILITY [Notice PIH 2020-01 and Mainstream Voucher Basics Webinar, 10/15/20]**

Mainstream voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to Mainstream families.

The following special considerations for Mainstream vouchers apply under portability:

- If the receiving PHA has a Mainstream voucher available, the participant may remain a Mainstream participant.
  - If the receiving PHA chooses to bill the initial PHA, then the voucher will remain a Mainstream voucher.
  - If the receiving PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream voucher if the receiving PHA has a Mainstream voucher available, and the Mainstream voucher at the initial PHA will be freed up to lease to another Mainstream-eligible family.
- If the receiving PHA does not have a Mainstream voucher available, the participant may receive a regular voucher.

#### **19-III.F. PROJECT-BASING MAINSTREAM VOUCHERS [FY19 Mainstream Voucher NOFA Q&A]**

The PHA may project-base Mainstream vouchers in accordance with all applicable PBV regulations and PHA policies in Chapter 17. PHAs are responsible for ensuring that, in addition to complying with project-based voucher program requirements, the project complies with all applicable federal nondiscrimination and civil rights statutes and requirements. This includes, but is not limited to, Section 504 of the Rehabilitation Act (Section 504), Titles II or III of the Americans with Disabilities (ADA), and the Fair Housing Act and their implementing regulations at 24 CFR Part 8; 28 CFR Parts 35 and 36; and 24 CFR Part 100. Mainstream vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

## **PART IV: EMERGENCY HOUSING VOUCHERS (EHV)**

### **19-IV.A. OVERVIEW**

On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARP) (P.L. 117-2). Section 3202 of the ARP appropriated \$5 billion for the creation, administration, and renewal of new incremental emergency housing vouchers (EHVs) and other eligible expenses related to COVID-19.

On May 5, 2021, HUD issued Notice PIH 2021-15, which described HUD's process for allocating approximately 70,000 EHVs to eligible PHAs and set forth the operating requirements for PHAs who administer them. Based on criteria outlined in the notice, HUD notified eligible PHAs of the number of EHVs allocated to their agency, and PHAs were able to accept or decline the invitation to participate in the program.

PHAs may not project-base EHVs; EHVs are exclusively tenant-based assistance.

All applicable nondiscrimination and equal opportunity requirements apply to the EHV program, including requirements that the PHA grant reasonable accommodations to persons with disabilities, effectively communicate with persons with disabilities, and ensure meaningful access for persons with limited English proficiency (LEP).

Except as addressed by this part and as required under federal statute and HUD requirements, the general requirements of the HCV program apply to EHVs.

### **19-IV.B. FUNDING OVERVIEW**

The American Rescue Plan Act of 2021 (ARP) provides administrative fees and funding for the costs of administering emergency housing vouchers (EHVs) and other eligible expenses defined in Notice PIH 2021-15. These fees may only be used for EHV administration and other eligible expenses and must not be used for or applied to other PHA programs or vouchers. The PHA must maintain separate financial records from its regular HCV funding for all EHV funding.

#### **Housing Assistance Payments (HAP) Funding**

ARP funding obligated to the PHA as housing assistance payments (HAP) funding may only be used for eligible EHV HAP expenses (i.e., rental assistance payments). EHV HAP funding may not be used for EHV administrative expenses or for the eligible uses under the EHV services fee.

The initial funding term will expire December 31, 2022. HUD will provide renewal funding to the PHA for the EHVs on a calendar year (CY) basis commencing with CY 2023. The renewal funding allocation will be based on the PHA's actual EHV HAP costs in leasing, similar to the renewal process for the regular HCV program. EHV renewal funding is not part of the annual HCV renewal funding formula; EHVs are renewed separately from the regular HCV program. All renewal funding for the duration of the EHV program has been appropriated as part of the ARP funding.

#### **Administrative Fee and Funding**

The EHV program provides administrative fee funding to PHAs for expenses that are not normally eligible under the HCV program, as well as fees designated for the cost of administering the EHV program generally. The following types of fees and funding are allocated as part of the EHV program:

- **Preliminary fees** support immediate start-up costs that the PHA will incur in implementing alternative requirements under EHV, such as outreach and coordination with partnering agencies:

- \$400 per EHV allocated to the PHA, once the consolidated annual contributions contract (CACC) is amended.
- This fee may be used for any eligible administrative expenses related to EHV.
- The fee may also be used to pay for any eligible activities under EHV service fees (TPS-I.B).
- **Issuing action fees** are one-time fees once the voucher is initially leased:
  - \$100 for each EHV initially leased, if the PHA reports the voucher issuance date in Public Housing Information Center–Next Generation (PIC–NG) system within fourteen (14) days of voucher issuance or the date the system becomes available for reporting.
  - Issuing action fees only apply to the initial leasing of the voucher; they are not paid for family moves or to turnover vouchers.
  - This fee may be used for any eligible administrative expenses related to EHV.
- **Placement fees** support initial lease-up costs and the added cost and effort required to expedite leasing of EHV:
  - \$500 for each EHV family placed under a HAP contract effective within four (4) months of the effective date of the ACC funding increment; or
  - \$250 for each EHV family placed under a HAP contract effective after four (4) months but less than six months after the effective date of the ACC funding increment.
  - HUD will determine placement fees in the event of multiple EHV allocations and funding increment effective dates.
  - Placement fees only apply to the initial leasing of the voucher; they are not paid for family moves or to turnover vouchers.
  - This fee may be used for any eligible administrative expenses related to EHV.
- **Ongoing administrative fees**, which are calculated in the same way as the standard HCV program:
  - PHAs are allocated administrative fees using the full column A administrative fee amount for each EHV under contract as of the first day of each month.
  - Ongoing EHV administrative fees may be subject to proration in future years, based on available EHV funding.
  - This fee may be used for any eligible administrative expenses related to EHV.
- **Services fees**, which are a one-time fee to support PHAs' efforts to implement and operate an effective EHV services program in its jurisdiction (TPS-I.B):
  - The fee is allocated once the PHA's CACC is amended to reflect EHV funding.
  - The amount allocated is \$3,500 for each EHV allocated.
  - This fee may be used for any of the eligible activities under the EHV service fee.



## **19-IV.C. SERVICE FEES**

Services fee funding must be initially used for defined eligible uses and not for other administrative expenses of operating the EHV program. Service fees fall into four (4) categories:

- Housing search assistance
- Security deposit/utility deposit/rental application/holding fee uses
- Owner-related uses
- Other eligible uses such as moving expenses or tenant-readiness services

The PHA must establish the eligible uses and the parameters and requirements for service fees in the PHA's administrative plan.

### **HACP Policy**

The eligible uses for service fees include:

**Housing search assistance**, which may include activities such as, but not limited to, helping a family identify and visit potentially available units during their housing search, helping to find a unit that meets the household's disability-related needs, providing transportation and directions, assisting with the completion of rental applications and HACP forms, and helping to expedite the EHV leasing process for the family.

**Application fees/non-refundable administrative or processing fees/refundable application deposit assistance**. The HACP may choose to assist the family with some or all these expenses.

**Holding fees** are fees an owner requests that are rolled into the security deposit after an application is accepted but before a lease is signed. The HACP may cover part or all of the holding fee for units where the fee is required by the owner after a tenant's application has been accepted but before the lease signing. The HACP and owner must agree how the holding fee gets rolled into the deposit, and under what conditions the fee will be returned. In general, owners need to accept responsibility for making needed repairs to a unit required by the initial housing quality standards (HQS) inspections and can only keep the holding fee if the client is at fault for not entering into a lease.

**Security deposit assistance**. The amount of the security deposit assistance may not exceed the lesser of two months' rent to owner, the maximum security deposit allowed under applicable state and/or local law, or the actual security deposit required by the owner. The HACP may pay the security deposit assistance directly to the owner or may pay the assistance to the family. If paid to the family, the HACP will require documentation that the family paid the security deposit.

**Utility deposit assistance/utility arrears**. The HACP may provide utility deposit assistance for some or all of the family's utility deposit expenses. Assistance can be provided for deposits (including connection fees) required for the utilities to be supplied by the tenant under the lease. The HACP may pay the utility deposit assistance directly to the utility company or may pay the assistance to the family. If paid to the family, the HACP will require documentation the family paid the utility deposit. The HACP will require the utility supplier or family to return the utility deposit assistance to the PHA at such time the deposit is returned by the utility supplier (less any amounts retained by the utility supplier). In addition, some families may have large balances with gas, electric, water, sewer, or trash companies that will make it difficult if not impossible to establish services for tenant-supplied utilities. The HACP may also provide the family with assistance to help address these utility arrears to facilitate leasing. Utility deposit assistance returned to the HACP will be used for either services fee eligible uses or other EHV administrative costs, as required by HUD.

**Owner recruitment and outreach for EHV's.** The HACP may use the service fee funding to conduct owner recruitment and outreach specifically for EHV's. In addition to traditional owner recruitment and outreach, activities may include conducting pre-inspections or otherwise expediting the inspection process, providing enhanced customer service, and offering owner incentive and/or retention payments.

**Owner incentive and/or retention payments.** The HACP may make incentive or retention payments to owners that agree to initially lease their unit to an EHV family and/or renew the lease of an EHV family.

Payments will be made as a single payment at the beginning of the assisted lease term (or lease renewal if a retention payment). Owner incentive and retentions payments are not housing assistance payments, are not part of the rent to owner, and are not taken into consideration when determining whether the rent for the unit is reasonable.

**Moving expenses (including move-in fees and deposits).** The HACP may provide assistance for some or all of the family's reasonable moving expenses when they initially lease a unit with the EHV. The HACP will not provide moving expenses assistance for subsequent moves unless the family is required to move for reasons other than something the family did or failed to do (e.g., the HACP is terminating the HAP contract because the owner did not fulfill the owner responsibilities under the HAP contract or the owner is refusing to offer the family the opportunity to enter a new lease after the initial lease term, as opposed to the family choosing to terminate the tenancy in order to move to another unit), or a family has to move due to domestic violence, dating violence, sexual assault, or stalking.

**Tenant-readiness services.** The HACP may use fees to help create a customized plan to address or mitigate barriers that individual families may face in renting a unit with an EHV, such as negative credit, lack of credit, negative rental or utility history, or to connect the family to other community resources (including COVID-related resources) that can assist with rental arrears.

**Essential household items.** The HACP may use services fee funding to assist the family with some or all of the costs of acquiring essential household items such as tableware, cooking equipment, beds or bedding, and essential sanitary products such as soap and toiletries.

**Renter's insurance if required by the lease.** The HACP may choose to assist the family with some or all this cost.

Any services fee assistance that is returned to the PHA after its initial or subsequent use may only be applied to the eligible services fee uses defined in Notice PIH 2021-15 (or subsequent notice) or other EHV administrative costs. Any amounts not expended for these eligible uses when the PHA's EHV program ends must be remitted to HUD.

## **19-IV.D. PARTNERING AGENCIES**

### **Continuum of Care (CoC)**

PHAs that accept an allocation of EHV's must work with community partners to determine the best use and targeting for EHV's along with other resources available in the community. PHAs are required to enter into a Memorandum of Understanding (MOU) with the Continuum of Care (CoC) to establish a partnership for the administration of EHV's.

### **HACP Policy**

The HACP has entered into an MOU with Allegheny County Department of Human Services (DHS).

## **Other Partnering Agencies**

The PHA may, but is not required to, partner with other organizations trusted by persons experiencing homelessness, such as victim services providers (VSPs) and other community partners. If the PHA chooses to partner with such agencies, the PHA must either enter into an MOU with the partnering agency or the partnering agency may be added to the MOU between the PHA and CoC.

## **HACP Policy**

The HACP has not added any additional agencies to the MOU between the HACP and Allegheny County DHS. However, the HACP also expanded its existing FSS contract to use additional services from Ursaline Support Services to the EHV participants.

## **Referrals**

### **CoC and Partnering Agency Referrals**

The primary responsibility of the CoC under the MOU with the PHA is to make direct referrals of qualifying individuals and families to the PHA. The PHA must generally refer a family that is seeking EHV assistance directly from the PHA to the CoC or other referring agency for initial intake, assessment, and possible referral for EHV assistance. Partner CoCs are responsible for determining whether the family qualifies under one of the four eligibility categories for EHV. 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.

## **HACP Policy**

The CoC or partnering agency must establish and implement a system to identify EHV-eligible individuals and families within the agency's caseload and make referrals to the HACP. The CoC or other partnering agency must certify that the EHV applicants they refer to the HACP meet at least one of the four (4) EHV eligibility criteria. The HACP will maintain a copy of the referral or certification from the CoC or other partnering agency in the participant's file along with other eligibility paperwork.

As part of the MOU, the HACP and CoC or other partnering agency will identify staff positions to serve as lead EHV liaisons. These positions will be responsible for transmission and acceptance of referrals. The CoC or partnering agency must commit sufficient staff and resources to ensure eligible individuals and families are identified and determined eligible in a timely manner.

The HACP liaison responsible for acceptance of referrals will contact the CoC or partnering agency liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than five (5) business days from the date the CoC or partnering agency receives this notification, the CoC or partnering agency liaison will provide the HACP with a list of eligible referrals including the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating they are EHV-eligible.

### **Offers of Assistance with CoC Referral**

Referrals for EHV must come through the CoC's Coordinated Entry (CE) system. However, the PHA may make an EHV available without a referral from the CoC or other partnering organization in order to facilitate an emergency transfer under VAWA in accordance with the PHA's Emergency Transfer Plan (ETP) in Chapter 16.

The PHA must also take direct referrals from outside the CoC if:

- The CoC does not have a sufficient number of eligible families to refer to the PHA; or
- The CoC does not identify families that may be eligible for EHV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking or human trafficking.

In the latter two (2) exceptions, the PHA must enter into a partnership to receive direct referrals from another entity (e.g., a homeless service provider, VSP, or anti-trafficking service provider if the CE system is not referring victims fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking). PHAs should work with the CoC to come up with an alternative referral system that allows for prioritization according to the standards set out in the MOU and the referring organization and that will transition easily to the CoC's CE system when it comes online or is able to begin making referrals.

If at any time the PHA is not receiving enough referrals or is not receiving referrals in a timely manner from the CoC or other partner referral agencies (or the PHA and CoC cannot identify any such alternative referral partner agencies), HUD may permit the PHA on a temporary or permanent basis to take EHV applications directly from applicants and admit eligible families to the EHV program in lieu of or in addition to direct referrals in those circumstances.

## **19-IV.E. WAITING LIST MANAGEMENT**

### **HCV Waiting List**

The regulation that requires the PHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 4 does not apply to PHAs operating the EHV program. Direct referrals are not added to the PHA's HCV waiting list.

The PHA must inform families on the HCV waiting list of the availability of EHV by, at a minimum, either by posting the information to their website or providing public notice in their respective communities in accordance with the requirements listed in Notice PIH 2021-15.

### **HACP Policy**

The HACP will post information about the EHV program for families on the HACP's HCV waiting list on their website. The notice will:

- Describe the eligible populations to which EHV are limited
- Clearly state that the availability of these EHV is managed through a direct referral process
- Advise the family to contact the CoC (or any other HACP referral partner, if applicable) if the family believes they may be eligible for EHV assistance

The HACP will ensure effective communication with persons with disabilities, including those with vision, hearing, and other communication-related disabilities in accordance with Chapter 2. The HACP will also take reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP) in accordance with Chapter 2.

## **EHV Waiting List**

The HCV regulations requiring the PHA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the EHV program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the EHV's available, the PHA must maintain a separate waiting list for EHV referrals, both at initial leasing and for any turnover vouchers that may be issued prior to September 30, 2023.

Further, the EHV waiting list is not subject to PHA policies in Chapter 4 regarding opening and closing the HCV waiting list. The PHA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the EHV waiting list.

## **Preferences**

### **HCV Waiting List Preferences**

If local preferences are established by the PHA for HCV, they do not apply to EHV's. However, if the PHA has a homeless preference or a VAWA preference for the HCV waiting list, the PHA must adopt additional policies related to EHV's in accordance with Notice PIH 2021-15.

### **HACP Policy**

The HACP offers both a homeless or a VAWA preference for the HCV waiting list. Neither preference will apply to EHV referrals.

### **EHV Waiting List Preferences**

With the exception of a residency preference, the PHA may choose, in coordination with the CoC and other referral partners, to establish separate local preferences for EHV's. The PHA may, however, choose to not establish any local preferences for the EHV waiting list.

### **HACP Policy**

No local preferences have been established for the EHV waiting list.

## **19-IV.F. FAMILY ELIGIBILITY**

### **Overview**

The CoC or referring agency determines whether the individual or family meets any one (1) of the four (4) eligibility criteria described in Notice PIH 2021-15 and then refers the family to the PHA. The PHA determines that the family meets other eligibility criteria for the HCV program, as modified for the EHV program and outlined below.

### **Referring Agency Determination or Eligibility**

In order to be eligible for an EHV, an individual or family must meet one of four eligibility criteria:

- Homeless as defined in 24 CFR 578.3;
- At risk of homelessness as defined in 24 CFR 578.3;
- Fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking (as defined in Notice PIH 2021-15), or human trafficking (as defined in the 22 U.S.C. Section 7102); or

- Recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability as determined by the CoC or its designee in accordance with the definition in Notice PIH 2021-15.

As applicable, the CoC or referring agency must provide documentation to the PHA of the referring agency's verification that the family meets one of the four eligible categories for EHV assistance. The PHA must retain this documentation as part of the family's file.

## **PHA Screening**

### **Overview**

HUD waived 24 CFR 982.552 and 982.553 in part for the EHV applicants and established alternative requirement for mandatory and permissive prohibitions of admissions. Except where applicable, PHA policies regarding denials in Chapter 3 of this policy do not apply to screening individuals and families for eligibility for an EHV. Instead, the EHV alternative requirement listed in this section will apply to all EHV applicants.

The mandatory and permissive prohibitions listed in Notice PIH 2021-15 and in this chapter, however, apply only when screening the individual or family for eligibility for an EHV. When adding a family member after the family has been placed under a HAP contract with EHV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 in doing so.

### **Mandatory Denials**

Under alternative requirements for the EHV program, mandatory denials for EHV applicants include:

- 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

The PHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited EHV grounds for denial of admission first.

### **HACP Policy**

While the HACP will deny admission to the program if any adult member (or head of household or spouse, regardless of age) fails to sign and submit consent forms, the HACP will first notify the family of the limited EHV grounds for denial of admission as part of the notice of denial that will be mailed to the family.

### **Permissive Denial**

Notice PIH 2021-15 lists permissive prohibitions for which the PHA may, but is not required to, deny admission to EHV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for EHV families.

If the PHA intends to establish permissive prohibition policies for EHV applicants, the PHA must first consult with its CoC partner to understand the impact that the proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.



## HACP Policy

In consultation with the CoC, the HACP will apply permissive prohibition to the screening of EHV applicants. Determinations using permissive prohibitions will be made based on an individualized assessment of relevant mitigating information in accordance with policies in Section 3-III.E.

The HACP will establish the following permissive prohibitions:

- If the PHA determines that any household member is currently engaged in, or has engaged in within the previous twelve (12) months:
  - Violent criminal activity
  - Other criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity
- If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program within the previous twelve (12) months.
- If the family engaged in or threatened abusive or violent behavior toward PHA personnel within the previous twelve (12) months.

The HACP will also deny assistance to household members already receiving assistance from another program in accordance with Section 9.h. of Notice PIH 2021-15.

Prohibitions based on criminal activity for the eligible EHV populations regarding drug possession will be considered apart from criminal activity against persons (i.e., violent criminal activity).

In compliance with PIH 2021-15, the HACP **will not** deny an EHV applicant admission regardless of whether:

- Any member of the family has been evicted from federally assisted housing in the last five (5) years;
- A PHA has ever terminated assistance under the program for any member of the family;
- The family currently owes rent or other amounts to the HACP 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 HACP in accordance with 24 CFR 982.553(a)(3);
- The HACP determines that any household member is currently engaged in or has engaged in during a reasonable time before the admission, drug-related criminal activity.

## **Income Verification at Admission**

### **Self-Certification at Admission**

The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the EHV program applicants at admission, and alternatively, PHAs may consider self-certification the highest form of income verification at admission. As such, PHA policies related to the verification of income in Section 7-I.B. do not apply to EHV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

Additionally, applicants may provide third-party documentation that represents the applicant's income within the sixty (60) day period prior to admission or voucher issuance but is not dated within sixty (60) days of the PHA's request.

### **HACP Policy**

Any documents used for verification must be the original (not photocopies) and dated within the sixty (60) day period prior to admission. The documents must not be damaged, altered, or in any way illegible.

Printouts from webpages are considered original documents.

Any family self-certifications must be made in a format acceptable to the HACP and must be signed by the family member whose information or status is being verified.

The HACP will incorporate additional procedures to remind families of the obligation to provide true and complete information in accordance with Chapter 14. The HACP will address any material discrepancies (i.e., unreported income or a substantial difference in reported income) that may arise later. The HACP 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 HACP will terminate the family's assistance in accordance with the policies in Chapter 12.

### **Recently Conducted Income Determinations**

PHAs may accept income calculations and verifications from third-party providers or from an examination that the PHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six (6) months; and

The family certifies there has been no change in income or family composition in the interim.

### **HACP Policy**

The HACP will accept income calculations and verifications from third-party providers, provided they meet the criteria outlined above.

The family certification must be made in a format acceptable to the HACP and must be signed by all adult family members whose information or status is being verified.

At the time of the family's annual reexamination the PHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and PHA policies in Chapter 11.

### **EIV Income Validation**

Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, the PHA must:

- Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within ninety (90) days of the PIC submission date;
- Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and
- Resolve any income discrepancy with the family within sixty (60) days of the EIV Income or IVT Report dates.

Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with PHA policies in Chapter 3.

If a PHA later determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program in accordance with Chapter 12.

### **Social Security Number and Citizenship Verification**

For the EHV program, the PHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the EHV program. Instead, PHAs may adopt policies to admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within one hundred-eighty (180) days of admission to be eligible for continued assistance, pending verification, unless the PHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

### **HACP Policy**

The HACP will admit EHV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. These individuals must provide the required documentation in accordance with policies in Chapter 7 within one hundred-eighty (180) days of admission. The HACP may provide an additional sixty (60) day extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

If the HACP determines that an ineligible family received assistance, the HACP will take steps to terminate that family from the program in accordance with policies in Chapter 12.

### **Age and Disability Verification**

PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, the PHA must obtain a higher level of verification within ninety (90) days of admission or verify the information in EIV.

If a PHA determines that an ineligible family received assistance, the PHA must take steps to terminate that family from the program.

### **HACP Policy**

The HACP will accept self-certification of date of birth and disability status if a higher form of verification is not immediately available. The certification must be made in a format acceptable to the HACP and must be signed by the family member whose information or status is being verified. If self-certification is accepted, within ninety (90) days of admission, the HACP will verify the information in EIV or through other third-party verification if the information is not available in EIV. The HACP will note the family's file that self-certification was used as initial verification and include an EIV printout or other third-party verification confirming the applicant's date of birth and/or disability status.

If the HACP determines that an ineligible family received assistance, the HACP will take steps to terminate that family from the program in accordance with policies in Chapter 12.

### **Income-Targeting**

The PHA must determine income eligibility for EHV families in accordance with 24 CFR 982.201 and PHA policy in Chapter 3; however, income targeting requirements do not apply for EHV families. The PHA may still choose to include the admission of extremely low-income EHV families in its income-targeting numbers for the fiscal year in which these families are admitted.

### **HACP Policy**

The HACP will not include the admission of extremely low-income EHV families in its income-targeting numbers for the fiscal year in which these families are admitted.

## **19-IV.G. HOUSING SEARCH AND LEASING**

### **Initial Voucher Term**

Unlike the standard HCV program, which requires an initial voucher term of at least sixty (60) days, EHV vouchers must have an initial search term of at least one hundred-twenty (120) days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

### **HACP Policy**

All EHV's will have an initial term of 120 calendar days plus up to two (2) thirty (30) day extensions.

The family must submit a Request for Tenancy Approval and proposed lease within voucher term plus any extensions granted.

### **Housing Search Assistance**

The PHA must ensure housing search assistance is made available to EHV families during their initial housing search. The housing search assistance may be provided directly by the PHA or through the CoC or another partnering agency or entity.

At a minimum, housing search assistance must:

- Help individual families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods;
- Provide transportation assistance and directions to potential units;
- Conduct owner outreach;
- Assist with the completion of rental applications and PHA forms; and

- Help expedite the EHV leasing process for the family

### **HACP Policy**

As identified in the MOU between the HACP and CoC, the following housing search assistance will be provided to each EHV family:

The HACP will:

- Conduct owner outreach in accordance with policies in Chapter 13
- Expedite the EHV leasing process for the family to the extent practicable and in accordance with policies in this chapter

The CoC will:

- Help families identify potentially available units during their housing search, including physically accessible units with features for family members with disabilities, as well as units in low-poverty neighborhoods
- Provide transportation assistance to potential units
- Assist the family with the completion of rental applications and HACP forms

### **HQS Pre-Inspections**

To expedite the leasing process, PHAs may pre-inspect available units that EHV families may be interested in leasing in order to maintain a pool of eligible units.

### **HACP Policy**

To expedite the leasing process, the HACP may pre-inspect available vacant units that EHV families may be interested in leasing to maintain a pool of eligible units. If an EHV family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within ninety (90) days of the date of the Request for Tenancy Approval (per its MTW authority), the unit may be approved provided that it meets all other conditions under 24 CFR 982.305.

The family will be free to select his or her unit.

When a pre-inspected unit is not selected, the HACP will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for any required reinspections.

### **Initial Lease Term**

Unlike in the standard the HCV program, EHV voucher holders may enter into an initial lease that is for less than twelve (12) months, regardless of the PHA policy in Section 9-I.E., Term of Assisted Tenancy.

### **Portability**

The normal HCV portability procedures and requirements outlined in Chapter 10 generally apply to EHV's. Exceptions are addressed below.

### **Nonresident Applicants**

Under EHV, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied, regardless of PHA policy in Section 10-II.B.

### **Billing and Absorption**

A receiving PHA cannot refuse to assist an incoming EHV family, regardless of whether the PHA administers EHV's under its own ACC.

If the EHV family moves under portability to another PHA that administers EHV's under its own ACC:

The receiving PHA may only absorb the incoming EHV family with an EHV (assuming it has an EHV voucher available to do so).

If the PHA does not have an EHV available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with EHV assistance and may not absorb the family with a regular HCV when the family leases the unit.

Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's EHV assistance, the EHV administration of the voucher is in accordance with the receiving PHA's EHV policies.

If the EHV family moves under portability to another PHA that does not administer EHV under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

### **Family Briefing**

In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA must inform the family how portability may impact the special EHV services and assistance that may be available to the family.

The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

### **HACP Policy**

In addition to following HACP policy on briefings in Chapter 5, as part of the briefing packet for EHV families, the HACP will include a written notice that the HACP will assist the family with moves under portability.

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

### **Coordination of Services**

If the portability move is in connection with the EHV family's initial lease-up, the receiving PHA and the initial PHA must consult and coordinate on the EHV services and assistance that will be made available to the family.

### **HACP Policy**

For EHV families who are exercising portability, when the HACP contacts the receiving PHA in accordance with Section 10-II.B. Preapproval Contact with Receiving PHA, the HACP will consult and coordinate with the receiving PHA to ensure there is no duplication of EHV services and assistance, and ensure the receiving PHA is aware of the maximum amount of services fee funding that the initial PHA may provide to the receiving PHA on behalf of the family.

### **Services Fee**

Standard portability billing arrangements apply for HAP and ongoing administrative fees for EHV families.

For service fees funding, the amount of the service fee provided by the initial PHA may not exceed the lesser of the actual cost of the services and assistance provided to the family by the receiving PHA or \$1,750, unless the initial PHA and receiving PHA mutually agree to change the \$1,750 cap. Service fees are paid as follows:



- If the receiving PHA, in consultation and coordination with the initial PHA, will provide eligible services or assistance to the incoming EHV family, the receiving PHA may be compensated for those costs by the initial PHA, regardless of whether the receiving PHA bills or absorbs.
- If the receiving PHA administers EHV's, the receiving PHA may use its own services fee and may be reimbursed by the initial PHA, or the initial PHA may provide the services funding upfront to the receiving PHA for those fees and assistance.
- If the receiving PHA does not administer EHV's, the initial PHA must provide the services funding upfront to the receiving PHA. Any amounts provided to the receiving PHA that are not used for services or assistance on behalf of the EHV family must promptly be returned by the receiving PHA to the initial PHA.

### **Placement Fee/Issuance Reporting Fee**

If the portability lease-up qualifies for the placement fee/issuance reporting fee, the receiving PHA receives the full amount of the placement component of the placement fee/issuance reporting fee. The receiving PHA is eligible for the placement fee regardless of whether the receiving PHA bills the initial PHA or absorbs the family into its own program at initial lease-up. The initial PHA qualifies for the issuance reporting component of the placement fee/issuance reporting fee, as applicable.

### **Payment Standard Schedule**

For the EHV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, the PHA may, but is not required to, establish separate higher payment standards for EHV's. Lower EHV payment standards are not permitted. If the PHA is increasing the regular HCV payment standard, the PHA must also increase the EHV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate EHV payment standard must comply with all other HCV requirements with the exception of the alternative requirements discussed below.

Further, if the PHA chooses to establish higher payments standards for EHV's, HUD has provided other regulatory waivers:

Defining the "basic range" for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent).

Allowing a PHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD published SAFMRs. The PHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.

The PHA must notify HUD if it establishes an EHV exception payment standard based on the SAFMR.

### **HACP Policy**

The HACP initially established a payment standard up to 120% of the Metropolitan Statistical Area Fair Market Rent (MSAFMR). Subsequently, the HACP submitted a waiver request to use its MTW exception payment standards for EHV. In July 2023, the HACP received HUD approval and moving forward will not establish a higher payment standard amount for EHV's. The PHA will use the same payment standards for HCV and EHV, including Reasonable Accommodation and Rehabilitation Payment Standards as applicable.

### **Rent Reasonableness**

All rent reasonableness requirements apply to EHV units, regardless of whether the PHA has established an alternative or exception EHV payment standard.

### **Increases in Payment Standards**

The requirement that the PHA apply increased payment standards at the family's first regular recertification on or after the effective date of the increase does not apply to EHV. The PHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family's first regular reexamination following the change.

### **HACP Policy**

The HACP will not establish an alternative policy for increases in the payment standard. HACP policy in Section 11-III.B. governing increases in payment standards will apply to EHV.

### **Termination of Vouchers**

After September 30, 2023, a PHA may not reissue EHV's when assistance for an EHV-assisted family ends. This means that when an EHV participant (a family that is receiving rental assistance under a HAP contract) leaves the program for any reason, the PHA may not reissue that EHV to another family unless it does so no later than September 30, 2023.

If an applicant family that was issued the EHV is unsuccessful in finding a unit and the EHV expires after September 30, 2023, the EHV may not be reissued to another family.

All EHV's under lease on or after October 1, 2023, may not under any circumstances be reissued to another family when the participant leaves the program for any reason.

An EHV that has never been issued to a family may be initially issued and leased after September 30, 2023, since this prohibition only applies to EHV's that are being reissued upon turnover after assistance to a family has ended. However, HUD may direct PHAs administering EHV's to cease leasing any unleased EHV's if such action is determined necessary by HUD to ensure there will be sufficient funding available to continue to cover the HAP needs of currently assisted EHV families.

As explained in Notice 2023-14, issued on June 29, 2023, HUD is identifying whether a voucher issuance is a turnover voucher or a voucher that has never been leased by counting the number of cumulative EHV lease-ups. (Note that cumulative leased vouchers is equal to all households leased since the start of the EHV program—this includes households that have left the program.)

Once a PHA's total cumulative leased EHV count reaches their total EHV allocation of the consolidated annual contributions contract (EHV-CACC), any EHV issuance is considered a reissuance. PHAs that have reached their cumulative EHV lease-up count may not reissue any EHV voucher after September 30, 2023.

If a PHA has not reached its EHV-CACC in cumulative leased vouchers, the PHA may continue to issue vouchers to eligible households after September 30, 2023, until the cumulative leased vouchers equal the number of EHV's currently under the PHA's EHV- CACC, or until directed by HUD to stop issuing EHV's. If a PHA is reallocated additional EHV's, these EHV's are considered never leased and may be issued.

PHAs must adjust their EHV voucher issuances according to their most recent EHV success rate, i.e., the likelihood that the voucher-holder will successfully secure an EHV lease. PHAs can consider evaluating their success rate similar to the EHV dashboard that provides a 180-day lease rate. For example, the PHA calculates that 50 percent of recent EHV voucher holders successfully establish an EHV lease in 180 days; therefore, their EHV 180-day success rate is 50 percent.

### Examples

As of October 1, 2023, a PHA has cumulatively leased 60 of its 100 EHV allocation under their EHV-CACC. The PHA may continue to issue and lease the remaining 40 EHV's that have never been leased.

As of October 1, 2023, a PHA has cumulatively leased 80 of its 100 EHV allocation and has a success rate of 50 percent. Therefore, the PHA may have no more than 40 families with a voucher searching for a unit, which – considering a 180-day success rate – would equate to 20 new leases, and thus a fully leased program. If these voucher holders do not equate to 20 new leases, the PHA may continue to issue vouchers, (considering a 180-day success rate) until the EHV-CACC limit is reached.

EHV participants may still move (including under portability) after September 30, 2023. The termination of vouchers upon turnover provision does not impact an individual or family's ability to move within the PHA's jurisdiction or their ability to move under the portability procedures to another PHA's jurisdiction.

### 19-IV.H. USE OF FUNDS, REPORTING, AND FINANCIAL RECORDS

EHV funds allocated to the PHA for HAP (both funding for the initial allocation and HAP renewal funding) may only be used for eligible EHV HAP purposes. EHV HAP funding obligated to the PHA may not be used for EHV administrative expenses or the other EHV eligible expenses under this notice. Likewise, EHV administrative fees and funding obligated to the PHA are to be used for those purposes and must not be used for HAP.

The appropriated funds for EHV's are separate from the regular HCV program and may not be used for the regular HCV program but may only be expended for EHV eligible purposes. EHV HAP funds may not roll into the regular HCV restricted net position (RNP) and must be tracked and accounted for separately as EHV RNP. EHV administrative fees and funding for other eligible expenses permitted by Notice PIH 2021-15 may only be used in support of the EHV's and cannot be used for regular HCV's. EHV funding may not be used for the repayment of debts or any amounts owed to HUD by HUD program participants including, but not limited to, those resulting from Office of Inspector General (OIG), Quality Assurance Division (QAD), or other monitoring review findings.

The PHA must comply with EHV reporting requirements in the Voucher Management System (VMS) and Financial Data Schedule (FDS) as outlined in Notice PIH 2021-15.

The PHA must maintain complete and accurate accounts and other records for the program and provide HUD and the Comptroller General of the United States full and free access to all accounts and records that are pertinent the administration of the EHV's in accordance with the HCV program requirements at 24 CFR 982.158.

## PART V: MOBILITY DEMONSTRATION VOUCHERS (MDV)

### 19-V.A. PROGRAM OVERVIEW

The Community Choice Demonstration (CCD) was authorized and funded through the 2019 and 2020 Appropriations Act, which made available a total of \$50 million: up to \$40 million for housing mobility-related services and up to \$10 million for new vouchers for families with children. The 2019 Appropriations Act also made available \$3 million for a research evaluation. The Demonstration was initially named Mobility Demonstration and was later changed to CCD.

Eight (8) PHA sites are currently providing comprehensive housing mobility-related services to HCV families with children as part of the CCD. Through October 2028, these PHA sites will provide housing mobility-related services to approximately 9,400 families.

Through a rigorous evaluation that includes a process study, an impact study based on a Randomized Controlled Trial (RCT), and a cost study, HUD intends to learn whether and to what extent housing mobility-related services facilitate moves to opportunity areas by families with children.

The CCD has two (2) phases. Phase 1 will test comprehensive mobility-related services (CMRS), and Phase 2 will test selected mobility-related services (SMRS) and compare them with CMRS.

Families who consent to participate will be randomly assigned to one (1) of the treatment groups or the control group. All families within the same treatment group must be offered the same set of services. Families randomly assigned to the control group will not receive any mobility-related services but will receive HCV program business-as-usual services already offered by participating PHAs for moving families.

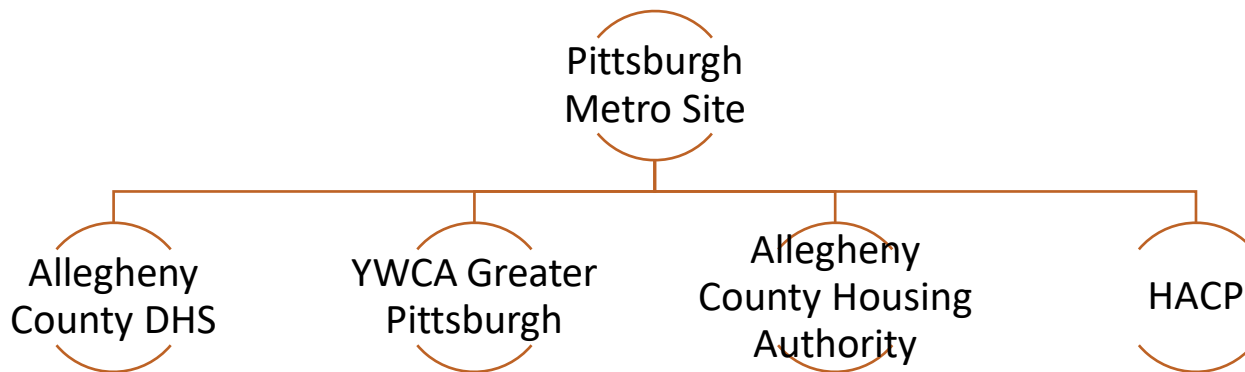
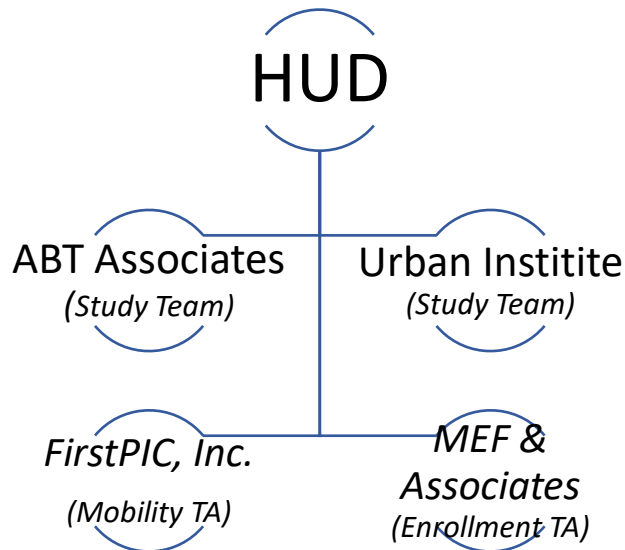
### **19-V.B. ELIGIBLE POPULATION**

The Appropriations Acts require that demonstration participants be *families with children*, which are families with at least one (1) child aged seventeen (17) and under. The demonstration is open to families with children already participating in the HCV program and interested in moving, called *existing voucher holders*. The demonstration will also be open to families with children who are new admissions to the HCV program and selected off the participating PHA waiting lists.

### **19-V.C. PARTNERSHIPS AND SUPPORTIVE SERVICES**

The HACP was involved in local mobility initiatives and partnerships before the CCD NOFO was released. The HACP had mobility payment standards and also participated in a regional mobility partnership with the Allegheny County Department of Human Services' Office of Analytics Technology, and Planning, Allegheny County Housing Authority, The Pittsburgh Foundation, Harvard's Opportunity Insights, and staff from PRRAC. This regional partnership was to secure funding and implement mobility services on a regional level.

Since the mobility partnership was established, the CCD was a natural fit, and the next step to secure funding to be able to provide mobility services on a larger scale. The partnership changed due to the enrollment in the CCD and is reflected as follows:



## **19-V.D. WAITING LIST ADMINISTRATION**

### **CCD Limited Preference**

Under program regulations, PHAs may use a system of waiting list preferences for the selection of families admitted to the program. Section 235(c)(6) of Division G of the 2019 Appropriations Act also allows for the “establishment of priority and preferences for participating families, including a preference for families with young children, as such term is defined by the Secretary, based on regional housing needs and priorities.” Given this authority, HUD requires that PHAs establish a waiting list preference.

To fulfill elements of the demonstration’s statutorily required evaluation design, PHAs must adopt the same preference for families with at least one (1) child, aged thirteen (13) and under, and who live in a census tract with a family poverty rate of 30 percent or higher.

### **HCV Waiting List**

The demonstration allows PHAs to apply the CCD preference to its existing HCV waiting list, open the HCV waiting list for those families who meet the limited preference, or a combination approved by the study team and HUD.

### **HACP Policy**

The HACP will apply a limited CCD preference to its existing HCV waiting list. At regular intervals (either monthly or quarterly depending on if the HACP is meeting enrollment targets), the HACP will evaluate those who send back the HCV applicant letter of interest to see if they qualify for the limited CCD preference and if they are interested in enrolling in the CCD. If the family meets the limited CCD preference criteria and is interested, the HACP will apply the limited CCD preference and continue its eligibility review process as described in Chapter 3. Once determined eligible for the HCV program, the applicant family will be invited to enroll in the CCD prior to the scheduled family briefing.

### **19-V.E. COMPREHENSIVE MOBILITY-RELATED SERVICES (CMRS)**

All participating PHA sites will be required to implement substantially the same CMRS. Based on available research, HUD has identified CMRS that are likely to be successful in helping families move to opportunity areas. These include a wide range of services, such as pre-move support, housing search assistance, landlord outreach and support, family financial assistance, landlord financial incentives, and post-move and subsequent move support. PHAs will have the flexibility to work with individual families to customize services, provided every family is offered all of the available services.

### **HACP Policy**

With HACP participation in the selection process, our partner, Allegheny County DHS, has procured a mobility service provider through the Allegheny County DHS request for proposal process. The chosen mobility service provider is the YWCA of Greater Pittsburgh.

### **19-V.F. EXPEDITED HOUSING SEARCH AND LEASE-UP POLICIES**

As part of the CCD, PHAs must agree to update their Administrative Plans to reflect any required policy changes, as applicable.

### **Participant Voucher Issuance**

All CCD participant families must be issued a shopping voucher in an expedited manner.

### **HACP Policy**

The HACP will make every effort to fast-track the voucher issuance process, including supply the mobility service provider with the required paperwork to streamline the process. The HACP will issue a shopping voucher to CCD participant families within ten (10) days of the request to move.

### **Voucher Term**

Unlike the standard HCV program which requires an initial voucher term of at least sixty (60) days, CCD vouchers must have an initial search term of at least one hundred-twenty (120) days. PHA policies on extensions as outlined in Section 5-II.E. will apply.

### **HACP Policy**

All CCD vouchers will have an initial term of one hundred-twenty (120) calendar days plus two (2) thirty (30) day extensions. Any extensions beyond the two (2) thirty (30) day extensions must be requested in writing and approved by HCV management for extenuating circumstances only.

The family must submit a Request for Tenancy Approval within the voucher term plus any extensions.



## **Request for Tenancy Approval (RFTA) Processing & Initial Inspection Scheduling**

All Request for Tenancy Approvals (RFTAs) from CCD families must be processed in an expedited manner. All initial HQS inspections must be processed in an expedited manner.

### **HACP Policy**

The HACP will flag and process all CCD RFTAs and schedule the initial HQS inspection (if the unit was not pre-inspected or failed pre-inspection) within five (5) business days of receipt of the completed form and all accompanying documents.

### **HQS Pre-Inspections**

To expedite the leasing process, PHAs may pre-inspect available units that CCD families may be interested in leasing.

### **HACP Policy**

To expedite the leasing process, the HACP may pre-inspect available vacant units that CCD families may be interested in leasing to maintain a pool of eligible units. If a CCD family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within ninety (90) days of the date of the Request for Tenancy Approval (per its MTW authority), the unit may be approved provided that it meets all other conditions under 24 CFR 982.305.

The family will be free to select their unit.

When a pre-inspected unit is not selected, the HACP will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for any required reinspections.

## **19-V.G. PAYMENT STANDARDS**

HUD requires that all PHAs participating in the demonstration offer high enough payment standards in opportunity areas to ensure that families have access to rental units in opportunity areas. HUD also requires that PHAs participating in the demonstration offer the same payment standards to families in the treatment and control group.

### **HACP Policy**

The HACP revised its payment standards for the CCD and adopted the tiered, rehabilitation, and reasonable accommodation payment standards in October 2022. The HACP has waiver permission to use all its MTW payment standards for CCD families (both participant and applicant).

## **19-V.H. PORTABILITY**

Just like in the HCV program, CCD families can port their voucher to any PHA that administers a HCV program. However, if the CCD family is randomly assigned to the mobility services (treatment) group, they may only continue to receive said services if they port to another PHA site participating in the CCD.

PHAs participating in the CCD are required to reduce barriers for families to move across PHA jurisdictions through streamlining portability processes.

### HACP Policy

The HACP will process all incoming and outgoing CCD portable families within five (5) business days of receipt.

### 19-V.I. PROJECT-BASED VOUCHERS AND HCV HOMEOWNERSHIP PROGRAM

CCD PHAs will be awarded Mobility Demonstration Vouchers (MDVs) and must also allocate regular turnover vouchers specifically for the demonstration. These vouchers may not be used as project-based vouchers (PBVs) or as HCV homeownership program vouchers due to the design constraints of the research evaluation.

Families participating in the demonstration may move to a PBV unit or purchase a home through the HCV homeownership program. Any MDV voucher holder who chooses to move to a project-based unit or purchase a home through the HCV homeownership program must be offered another voucher from the PHA in accordance with the PHA's policies.

Although MDVs cannot be project-based, PHAs may use up to 2 percent of their mobility-related services funding to develop a regional project-based voucher plan. The plan, which will be submitted to HUD at the beginning of the fourth year of the demonstration, must include, at minimum:

- An analysis of PBV units that are large enough for families with children and are currently in opportunity areas in the region; and
- A strategy for increasing the number of those types of PBV units throughout the region.

### HACP Policy

The HACP will work with its CCD partners to develop a Regional PBV Plan compliance with CCD requirements and guidelines.

## **GLOSSARY**

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### **A. ACRONYMS USED IN THE HOUSING CHOICE VOUCHER (HCV) PROGRAM**

<b><u>ACC</u></b>	<u>Annual Contributions Contract</u>
<b><u>ADA</u></b>	<u>Americans with Disabilities Act of 1990</u>
<b><u>AIDS</u></b>	<u>Acquired Immune Deficiency Syndrome</u>
<b><u>BR</u></b>	<u>Bedroom</u>
<b><u>CDBG</u></b>	<u>Community Development Block Grant (Program)</u>
<b><u>CFR</u></b>	<u>Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)</u>
<b><u>CPI</u></b>	<u>Consumer Price Index (published monthly by the Department of Labor as an inflation indicator)</u>
<b><u>EIV</u></b>	<u>Enterprise Income Verification</u>
<b><u>FDIC</u></b>	<u>Federal Deposit Insurance Corporation</u>
<b><u>FHA</u></b>	<u>Federal Housing Administration (HUD Office of Housing)</u>
<b><u>FHEO</u></b>	<u>Fair Housing and Equal Opportunity (HUD Office of)</u>
<b><u>FICA</u></b>	<u>Federal Insurance Contributions Act (established Social Security taxes)</u>
<b><u>FMR</u></b>	<u>Fair Market Rent</u>
<b><u>FR</u></b>	<u>Federal Register</u>
<b><u>FSS</u></b>	<u>Family Self-Sufficiency (Program)</u>
<b><u>FY</u></b>	<u>Fiscal Year</u>
<b><u>FYE</u></b>	<u>Fiscal Year End</u>
<b><u>GAO</u></b>	<u>Government Accountability Office</u>
<b><u>GR</u></b>	<u>Gross rent</u>
<b><u>HA</u></b>	<u>Housing Authority or Housing Agency</u>
<b><u>HAP</u></b>	<u>Housing Assistance Payment</u>
<b><u>HCV</u></b>	<u>Housing Choice Voucher</u>
<b><u>HQS</u></b>	<u>Housing Quality Standards</u>
<b><u>HUD</u></b>	<u>U.S. Department of Housing and Urban Development</u>
<b><u>HUDCLIPS</u></b>	<u>HUD Client Information and Policy System</u>
<b><u>IPA</u></b>	<u>Independent Public Accountant</u>

<b><u>IRA</u></b>	<u>Individual Retirement Account</u>
<b><u>IRS</u></b>	<u>Internal Revenue Service</u>
<b><u>IVT</u></b>	<u>Income Validation Tool</u>
<b><u>JTPA</u></b>	<u>Job Training Partnership Act</u>
<b><u>LBP</u></b>	<u>Lead-Based Paint</u>
<b><u>LEP</u></b>	<u>Limited English Proficiency</u>
<b><u>MSA</u></b>	<u>Metropolitan Statistical Area (established by the U.S. Census Bureau)</u>
<b><u>MTW</u></b>	<u>Moving to Work</u>
<b><u>NOFA</u></b>	<u>Notice of Funding Availability</u>
<b><u>OGC</u></b>	<u>HUD's Office of General Counsel</u>
<b><u>OIG</u></b>	<u>HUD's Office of Inspector General</u>
<b><u>OMB</u></b>	<u>Office of Management and Budget</u>
<b><u>PASS</u></b>	<u>Plan to Achieve Self-Support</u>
<b><u>PBV</u></b>	<u>Project-Based Voucher</u>
<b><u>PHA</u></b>	<u>Public Housing Agency</u>
<b><u>PIC</u></b>	<u>PIH Information Center</u>
<b><u>PIH</u></b>	<u>(HUD Office of) Public and Indian Housing</u>
<b><u>PS</u></b>	<u>Payment Standard</u>
<b><u>QC</u></b>	<u>Quality Control</u>
<b><u>RAD</u></b>	<u>Rental Assistance Demonstration Program</u>
<b><u>REAC</u></b>	<u>(HUD) Real Estate Assessment Center</u>
<b><u>RFP</u></b>	<u>Request for Proposals</u>
<b><u>RFTA</u></b>	<u>Request for Tenancy Approval</u>
<b><u>RIGI</u></b>	<u>Regional Inspector General for Investigation (handles fraud and program abuse matters for HUD at the regional office level)</u>
<b><u>SEMAP</u></b>	<u>Section 8 Management Assessment Program</u>
<b><u>SRO</u></b>	<u>Single Room Occupancy</u>
<b><u>SSA</u></b>	<u>Social Security Administration</u>
<b><u>SSI</u></b>	<u>Supplemental Security Income</u>
<b><u>SWICA</u></b>	<u>State Wage Information Collection Agency</u>

<u>TANF</u>	<u>Temporary Assistance for Needy Families</u>
<u>TPV</u>	<u>Tenant Protection Vouchers</u>
<u>TR</u>	<u>Tenant Rent</u>
<u>TTP</u>	<u>Total Tenant Payment</u>
<u>UA</u>	<u>Utility Allowance</u>
<u>UFAS</u>	<u>Uniform Federal Accessibility Standards</u>
<u>UIV</u>	<u>Upfront Income Verification</u>
<u>URP</u>	<u>Utility Reimbursement Payment</u>
<u>VAWA</u>	<u>Violence Against Women Reauthorization Act of 2022</u>
<u>VCA</u>	<u>Voluntary Compliance Agreement</u>
<u>VMS</u>	<u>Voucher Management System</u>

## **B. GLOSSARY OF SUBSIDIZED HOUSING TERMS**

**Absorption.** In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

**Accessible.** The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

**Adjusted income.** Annual income, less allowable HUD deductions and allowances.

**Administrative fee.** Fee paid by HUD to the PHA for administration of the program. See §982.152.

**Administrative plan.** The plan that describes PHA policies for the administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

**Admission.** The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (the first day of initial lease term) in a tenant-based program.

**Affiliated individual.** With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual

**Amortization payment.** In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

**Annual.** Happening once a year.

**Annual contributions contract (ACC).** The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

**Annual income.** The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

**Applicant (applicant family).** A family that has applied for admission to a program but is not yet a participant in the program.

**Area exception rent.** An amount that exceeds the published FMR. See 24 CFR 982.504(b).

**As-paid states.** States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

**Assets.** (See *net family assets*.)

**Auxiliary aids.** Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

**Biennial.** Happening every two years.

**Bifurcate.** With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

**Budget authority.** An amount authorized and appropriated by Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that HUD may pay to the PHA over the ACC term of the funding increment.

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

**Childcare expenses.** Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to seek employment actively, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

**Citizen.** A citizen or national of the United States.

**Cohead.** An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter a lease.

**Common space.** In shared housing, the space available for use by the assisted family and other occupants of the unit.

**Computer match.** The automated comparison of databases containing records about individuals.

**Confirmatory review.** An on-site review performed by HUD to verify the management performance of a PHA.



**Consent form.** Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other data to determine eligibility or level of benefits.

**Congregate housing.** Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see 24 CFR 982.606–609.

**Contiguous MSA.** In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

**Continuously assisted.** An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

**Contract authority.** The maximum annual payment by HUD to a PHA for a funding increment.

**Cooperative** (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type (see 24 CFR 982.619).

**Covered families.** Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

**Dating violence.** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

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

**Dependent.** A member of the family (except foster children and foster adults) other than the family head or spouse who is under 18 years of age, or is a person with a disability, or is a full-time student.

**Dependent child.** In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

**Disability assistance expenses.** Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

**Disabled family.** A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

**Disabled person.** See person with disabilities.

**Disallowance.** Exclusion from annual income.

**Displaced family.** A family in which each member, or whose sole member, is a person displaced by governmental action or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

**Domestic violence.** Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction receiving grant funding, and in the case of victim services, includes the user or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who is:

- The current or former spouse or intimate partner of the victim, or person similarly situated to a spouse or intimate partner of the victim
- A person who is cohabitating or has cohabitated with the victim as a spouse or intimate partner
- A person with whom the victim shares a child in common
- A person who commits acts against a youth or adult victim who is protected from those acts under the domestic or family violence laws of the jurisdiction

**Domicile.** The legal residence of the household head or spouse as determined in accordance with state and local law.

**Drug-related criminal activity.** The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

**Economic abuse.** Behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, and manipulation to:

- Restrict a person's access to money, assets, credit, or financial information
- Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage
- Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or to whom one has a fiduciary duty

**Economic self-sufficiency program.** Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

**Elderly family.** A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

**Elderly person.** An individual who is at least 62 years of age.

**Eligible family** A family that is income-eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR. See also *family*.

**Employer identification number (EIN).** The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

**Evidence of citizenship or eligible status.** The documents must be submitted as evidence of citizenship or eligible immigration status. See 24 CFR 5.508(b).

**Extremely low-income family.** A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. See 24 CFR 5.603.

**Facility.** All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

**Fair Housing Act.** Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

**Fair market rent (FMR).** The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

**Family.** Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy.

- A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size)
- An elderly family or a near-elderly family
- A displaced family
- The remaining member of a tenant family
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

**Family rent to owner.** In the voucher program, the portion of rent to owner paid by the family.

**Family self-sufficiency program (FSS program).** The program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the coordination of supportive services to these families (24 CFR 984.103).

**Family share.** The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515(a).

**Family unit size.** The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

**Federal agency.** A department of the executive branch of the federal government.

**Foster child care payment.** A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

**Full-time student.** A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). See 24 CFR 5.603.

**Funding increment.** Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

**Gender identity.** Actual or perceived gender-related characteristics.

**Gross rent.** The sum of the rent to owner plus any utility allowance.

**Group home.** A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type: see 24 CFR 982.610–614.)

**Handicap.** Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

**HAP contract.** The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

**Head of household.** The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

**Household.** A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

**Housing assistance payment.** The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

**Housing agency (HA).** See *public housing agency*.

**Housing quality standards (HQS).** The HUD minimum quality standards for housing assisted under the voucher program.

**HUD.** The U.S. Department of Housing and Urban Development.

**Human trafficking.** A crime involving the exploitation of a person for labor, services, or commercial sex. The Trafficking Victims Protection Act of 2000 and its subsequent reauthorizations recognize and define two primary forms of human trafficking:

- Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a 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. See 22 U.S.C. § 7102(11)(A).

- Forced labor is 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. See 22 U.S.C. § 7102(11)(B).

**Imputed asset.** An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

**Imputed asset income.** The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed \$5,000.

**Imputed welfare income.** An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

**Income.** Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

**Income for eligibility.** Annual income.

**Income information** means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages, and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

**Individual with handicaps.** See *person with disabilities*.

**Initial PHA.** In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

**Initial payment standard.** The payment standard at the beginning of the HAP contract term.

**Initial rent to owner.** The rent to owner at the beginning of the HAP contract term.

**Institution of higher education.** An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

**Jurisdiction.** The area in which the PHA has authority under state and local law to administer the program.

**Landlord.** Either the owner of the property or their representative, or the managing agent or their representative, as shall be designated by the owner.

**Lease.** A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.



**Live-in aide.** A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

**Living/sleeping room.** A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space. A bedroom or living/sleeping room must have at least one window and two electrical outlets in proper operating condition. See HCV GB p. 10-6 and 24 CFR 982.401.

**Local preference.** A preference used by the PHA to select among applicant families.

**Low-income family.** A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

**Manufactured home.** A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. (A special housing type: see 24 CFR 982.620 and 982.621.)

**Manufactured home space.** In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

**Medical expenses.** Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 10 percent of annual income.

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

**Mixed family.** A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

**Monthly adjusted income.** One twelfth of adjusted income.

**Monthly income.** One twelfth of annual income.

**Mutual housing.** Included in the definition of *cooperative*.

**National.** A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

**Near-elderly family.** A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.



**Net family assets.** (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.
- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

**Noncitizen.** A person who is neither a citizen nor national of the United States.

**Notice of funding availability (NOFA).** For budget authority that HUD distributes by competitive process, the *Federal Register* document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

**Office of General Counsel (OGC).** The General Counsel of HUD.

**Overcrowded.** A unit that does not meet the following HQS space standards: (1) Provide adequate space and security for the family; and (2) Have at least one bedroom or living/sleeping room for each two persons.

**Owner.** Any person or entity with the legal right to lease or sublease a unit to a participant.

**PHA Plan.** The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

**PHA's quality control sample.** An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

**Participant (participant family).** A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

**Payment standard.** The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

**Person with disabilities.** *For the purposes of program eligibility.* A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

**Portability.** Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

**Premises.** The building or complex in which the dwelling unit is located, including common areas and grounds.

**Previously unemployed.** Concerning the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

**Private space.** In shared housing, the portion of a contract unit is for the exclusive use of an assisted family.

**Processing entity.** The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the “processing entity” is the “responsible entity.”

**Project owner.** The person or entity that owns the housing project containing the assisted dwelling unit.

**Public assistance.** Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

**Public housing agency (PHA).** Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

**Qualified census tract.** With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

**Reasonable rent.** A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

**Reasonable accommodation.** A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA’s programs or services.

**Receiving PHA.** In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

**Recertification.** Sometimes called *reexamination*. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

**Remaining member of the tenant family.** The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

**Rent to owner.** The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

**Residency preference.** A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

**Residency preference area.** The specified area where families must reside to qualify for a residency preference.

**Responsible entity.** For the public housing and the Section 8 tenant-based assistance, project-based voucher assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

**Secretary.** The Secretary of Housing and Urban Development.

**Section 8.** Section 8 of the United States Housing Act of 1937.

**Section 8 covered programs.** All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

**Section 214.** Section 214 of the Housing and Community Development Act of 1980, as amended.

**Section 214 covered programs.** The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

**Security deposit.** A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

**Set-up charges.** In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

**Sexual assault.** Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

**Sexual orientation.** Homosexuality, heterosexuality or bisexuality.

**Shared housing.** A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special housing type: see 24 CFR 982.615–982.618.)

**Single person.** A person living alone or intending to live alone.

**Single room occupancy housing (SRO).** A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

**Small rural public housing agency (PHA).** Section 38 defines the term “small public housing agency” as a public housing agency “for which the sum of the number of public housing dwelling units administered by the agency and the number of vouchers under section 8(o) administered by the agency is 550 or fewer” and “that predominantly operates in a rural area, as described in section 1026.35(b)(2)(iv)(A) of title 12, Code of Federal Regulations.” After consideration of the public comments discussed above, HUD is interpreting “predominantly operates in a rural area” to mean a small PHA that:

- (1) Has a primary administrative building with a physical address in a rural area as described in 12 CFR 1026.35(b)(2)(iv)(A); or
- (2) more than 50 percent of its combined public housing units and voucher units under section 8(o) are in rural areas as described in 12 CFR 1026.35(b)(2)(iv)(A). HUD also clarifies that voucher units under section 8(o) include those in the tenant-based Housing Choice Voucher (HCV) program and the Project-Based Voucher (PBV) program.

**Social security number (SSN).** The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person’s earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

**Special admission.** Admission of an applicant that is not on the PHA waiting list or without considering the applicant’s waiting list position.

**Special housing types.** See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

**Specified welfare benefit reduction.** Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

**Spouse.** The marriage partner of the head of household.

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

**State wage information collection agency (SWICA).** The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

**Subsidy standards.** Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

**Suspension.** The term on the family’s voucher stops from the date the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied. This practice is also called *tolling*.

**Tax credit rent.** With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

**Technological abuse.** An act or pattern of behavior that occurs within domestic violence, dating violence, sexual assault, or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person, except as otherwise permitted by law, that occurs using any form of technology, including but not limited to:

- Internet enabled devices
- Online spaces and platforms
- Computers
- Mobile devices
- Cameras and imaging programs
- Apps
- Location tracking devices
- Communication technologies
- Any other emergency technologies

**Tenancy addendum.** For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

**Tenant.** The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

**Tenant rent to owner.** See family rent to owner.

**Term of lease.** The amount of time a tenant agrees in writing to live in a dwelling unit.

**Total tenant payment (TTP).** The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

**Unit.** Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

**Utilities.** Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

**Utility allowance.** If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

**Utility reimbursement.** In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

**Utility hook-up charge.** In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.



**Very low-income family.** A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

**Veteran.** A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

**Violence Against Women Reauthorization Act (VAWA).** Prohibits denying admission to the program to an otherwise qualified applicant or terminating assistance on the basis that the applicant or program participant is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

**Violent criminal activity.** Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

**Voucher (housing choice voucher).** A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

**Voucher holder.** A family holding a voucher with an unexpired term (search time).

**Voucher program.** The housing choice voucher program.

**Waiting list.** A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

**Waiting list admission.** An admission from the PHA waiting list.

**Welfare assistance.** Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (24 CFR 984.103), *welfare assistance* includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as child care and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, child care information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker.