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Reserved

Chapter 1

STATEMENT OF POLICIES AND OBJECTIVES

INTRODUCTION

The Housing Authority of the County of Merced receives funding for the Housing Choice Voucher program from the Department of Housing and Urban Development (HUD). The purpose of the program and funding is to provide housing assistance to low-income families. Housing Authority of the County of Merced enters into an Annual Contribution Contract (ACC) with HUD to administer the program on behalf of HUD. The Housing Authority of the County of Merced is required to ensure that all federal, state and local regulations are followed. The Housing Authority of the County of Merced is required to establish policies and procedures to clarify federal requirements and ensure consistency in program operations. Currently the Housing Authority of the County of Merced is assisting approximately 2780 families throughout Merced County.

Administration of the Housing Choice Voucher Program and the functions and responsibilities of the Housing Authority (HACM) staff shall be in compliance with this plan and the Department of Housing and Urban Development's (HUD) Housing Choice Voucher Regulations as well as all Federal, State and local Fair Housing Laws and Regulations.

Jurisdiction

The jurisdiction of the HACM is the County of Merced.

A. HOUSING AUTHORITY MISSION STATEMENT OR HISTORICAL INFORMATION ON THE AGENCY

Mission Statement of the Housing Authority of the County of Merced:

The Housing Authority of the County of Merced offers affordable housing opportunities in our community, free from discrimination, to enhance the quality of life of those we serve.

B. LOCAL GOALS [24 CFR 982.1]

The Housing Choice Voucher tenant-based assistance program is designed to achieve these major objectives:

1. To ensure that all units meet Housing Quality Standards and families pay fair and reasonable rents.
2. To promote fair housing and the opportunity for very low-income families of all ethnic backgrounds to experience freedom of housing choice.
3. To 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.

In addition, the HACM has the following goals for the program:

1. To assist the local economy by increasing the occupancy rate and the amount of money flowing into the community.
2. To 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.
3. To create positive public awareness and expand the level of family, owner, and community support in accomplishing the HACM's mission.
4. To attain and maintain a high level of standards and professionalism in our day-to-day management of all program components.
5. To administer an efficient, high-performing agency through continuous improvement of the HACM's support systems and commitment to our employees and their development.

C. PURPOSE OF THE ADMIN PLAN [24 CFR 982.54]

The purpose of the Administrative Plan is to clearly outline the policies that govern the Housing Authority's administration of rental assistance programs. The plan includes program requirements established by HUD, as well as discretionary policies established by the Housing Authority.

The policies of this Administrative Plan comply with applicable local and State laws, as well as HUD and other Federal regulations and guidelines, including fair housing and equal opportunity requirements. If applicable regulatory changes conflict with this plan, HUD regulations will have precedence.

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 982:	Housing Choice Voucher Tenant-Based Assistance: Housing Choice Voucher Program
24 CFR Part 983:	Project Based Vouchers
24 CFR Part 985:	Section 8 Management Assessment Program SEMAP

The Housing Authority of the County of Merced adheres to the Administrative Plan in all rental assistance programs.

D. HOW THE PLAN IS REVISED

The original plan and any changes must be approved by the Housing Authority of the County of Merced Board of Commissioners. A copy of the plan must be provided to HUD.

As much as possible, revisions and additions are published to coincide with published changes in the Housing Authority of the County of Merced Agency Plan. Interim changes, including Board mandates and administrative updates reflecting changes in law or regulatory requirements, will be made effective by memo from the Executive Director or designee.

The Administrative Plan is a supporting document to the Housing Authority of the County of Merced Agency Plan, and is available for public review as required by CFR 24 Part 903.

E. RULES AND REGULATIONS [24 CFR 982.52]

This Administrative Plan is set forth to define the HACM's local policies for operation of the housing programs in the context of Federal laws and Regulations. All issues related to Housing Choice Voucher not addressed in this document are governed by such Federal regulations, HUD Memos, Notices and guidelines, or 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.

F. TERMINOLOGY

The Housing Authority of the County of Merced is referred to as "HACM" or PHA for "Public Housing Authority" throughout this document.

"Family" is used interchangeably with "Applicant" or "Participant" and can refer to a single person family.

"Tenant" is used to refer to participants in terms of their relation to owners.

"Landlord", "owner", and "property manager" are used interchangeably.

"Disability" is used where "handicap" was formerly used.

"Non-citizens Rule" refers to the regulation effective June 19, 1995 restricting assistance to U.S. citizens and eligible immigrants.

The Housing Choice Voucher program refers to the merged program effective as of October 1, 1999.

"HQS" means the Housing Quality Standards required by regulations as enhanced by the HACM.

"Failure to Provide" refers to all requirements in the first Family Obligation. See "Denial or Termination of Assistance" chapter.

"Merger date" refers to October 1, 1999, which is the effective date of the merging of the Housing Choice Voucher Certificate and Voucher programs into the Housing Choice Voucher Program.

See Glossary for other terminology.

G. FAIR HOUSING/NONDISCRIMINATION

HACM will treat all applicants and participants equally, providing the same opportunity to access services, regardless of family characteristics and background.

The HACM shall not deny any family or individual the opportunity to apply for or receive assistance under the Housing Choice Voucher Programs on the basis of race, color, religion, sex, national origin, age, familial or marital status, disability, sexual orientation and gender identity.

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

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)

- The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012 and further clarified in Notice PIH 2014-20
- Violence Against Women Reauthorization Act of 2013 (VAWA)
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted will also apply.

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

The HACM will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or participant toward or away from a particular area based any of these factors
- Deny anyone access to the same level of services
- Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- Discriminate in the provision of residential real estate transactions
- Discriminate against someone because they are related to or associated with a member of a protected class
- Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class

Providing Information to Families and Owners

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

Discrimination Complaints

If an applicant or participant believes that any family member has been discriminated against by the HACM or an owner, the family should advise the HACM. The HACM will

make every reasonable attempt to determine whether the applicant's or participant's assertions have merit and take any warranted corrective action. In addition, the HACM is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

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

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

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

Within 10 business days of receiving the complaint, the HACM will provide a written notice to those alleged to have violated the rule. The HACM 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 HACM will attempt to remedy discrimination complaints made against the PHA and will conduct an investigation into all allegations of discrimination. Within 10 business days following the conclusion of the HACM's investigation, the HACM 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 HACM will keep a record of all complaints, investigations, notices, and corrective actions.

H. REASONABLE ACCOMMODATIONS POLICY [24 CFR 100.202]

It is the policy of this HACM to be service-directed in the administration of our housing programs and to exercise and demonstrate a high level of professionalism while providing housing services to families.

A participant with a disability must first ask for a specific change to a policy or practice as an accommodation of his or her disability before the HACM will treat a person differently than anyone else. The HACM's policies and practices will be designed to provide assurances that persons with disabilities will be given reasonable accommodations, upon request, so that they may fully access and utilize the housing program and related services.

To be eligible to request a reasonable accommodation, the requester must first certify (if apparent) or verify (if not apparent) that they are a person with a disability under the following ADA definition:

A physical or mental impairment that substantially limits one or more of the major life activities of an individual:

- A record of such impairment; or
- Being regarded as having such an impairment

Note: This is not the same as the HUD definition used for purposes of determining allowances.

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 24 CFR 5.403 HUD regulations, individuals are not considered disabled for eligibility purposes solely on the basis of any drug or alcohol dependence. Individuals whose drug or alcohol addiction is a material factor to their disability are excluded from the definition. Individuals are considered disabled if disabling mental and physical limitations would persist if drug or alcohol abuse were discontinued.

Once the person's status as a qualified person with a disability is confirmed, the HACM may require that a professional third party competent to make the assessment provides written verification that the person needs the specific accommodation due to their disability and the change is required for them to have equal access to the housing program.

If the HACM finds that the requested accommodation creates an undue administrative or financial burden, the HACM will either deny the request and/or present an alternate accommodation that will still meet the need of the person.

An undue administrative burden is one that requires a fundamental alteration of the essential functions of the HACM, including, but not limited to waiving a family obligation.

An undue financial burden is one that when considering the available resources of the agency as a whole, the requested accommodation would pose a severe financial hardship on the HACM.

In determining whether accommodation would create an undue hardship, the following guidelines will apply:

The nature and cost of the accommodation needed;

The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; and

The number of persons employed at such facility, the number of families likely to need such accommodation, the effect on expenses and resources, or the likely impact on the operation of the facility as a result of the accommodation.

The HACM will provide a written decision to the person requesting the accommodation within a reasonable time. If a person is denied the accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review the HACM's decision.

Reasonable accommodation will be made for persons with a disability that requires an advocate or accessible offices. A designee will be allowed to provide some information, but only with the permission of the person with the disability.

Verification of Disability

The HACM will verify disabilities under definitions in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, and Americans with Disabilities Act.

Applying for Admission

All persons who wish to apply for any of the HACM's programs must submit an application in written format. Exceptions may be made for someone with a disability requesting a reasonable accommodation.

I. TRANSLATION SERVICES

Oral Translation

The HACM has bilingual staff to assist non-English speaking families in Spanish and Hmong and orally translates documents into Spanish and Hmong. Where bilingual staff is not available to interpret for these families, the HACM will use an online language interpretation service, which offers translation in over 100 languages, or available local organizations such as: Merced Lao Family, Inc or Healthy House Merced to communicate effectively with clients.

Written Translation

In determining whether it is feasible to provide translation of documents written in English into other languages, the HACM will consider the following factors:

- Number of applicants and participants in the jurisdiction who do not speak English and speak the other language.
- Estimated cost to HACM per client of translation of English written documents into the other language.
- The availability of local organization to provide translation services to non-English speaking families.
- Availability of bi-lingual staff to provide translation for non-English speaking families.

J. MANAGEMENT ASSESSMENT OBJECTIVES

The HACM operates its housing assistance program with efficiency and can demonstrate to HUD auditors that the HACM is using its resources in a manner that reflects its commitment to quality and service. The HACM policies and practices are consistent with the goals and objectives of the following HUD SEMAP indicators.

1. Selection from the Waiting List
2. Reasonable Rent
3. Determination of Adjusted Income
4. Utility Allowance Schedule
5. HQS Quality Control Inspections
6. HQS Enforcement
7. Expanding Housing Opportunities
8. Payment Standards
9. Annual Re-examinations
10. Correct Tenant Rent Calculations
11. Pre-Contract HQS Inspections
12. Annual HQS Inspections
13. Lease-up
- 14a. Family Self-Sufficiency Enrollment
- 14b. Percent of FSS Participants with Escrow Account Balances
15. Bonus Indicator (Deconcentration)

K. RECORDS FOR MONITORING HACM PERFORMANCE

In order to demonstrate compliance with HUD and other pertinent regulations, the HACM will maintain records, reports and other documentation for a time that is in accordance with HUD requirements and in a manner that will allow an auditor, housing professional or other interested party to follow, monitor and or assess the HACM's operational procedures objectively and with accuracy and in accordance with SEMAP requirements with internal supervisory audits.

Supervisory staff will audit the following functions:

- Reexaminations according to HUD regulations governing universal amount.
- New admissions according to HUD regulations governing universal amount.
- HQS Inspections (Initial and annual) according to HUD regulations governing universal amount.

L. PRIVACY RIGHTS [24 CFR 982.551 and 24 CFR 5.212]

Applicants and participants, including all adults in their households, are required to sign the HUD 9886 Authorization for Release of Information. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD/HACM will release family information.

The HACM's policy regarding release of information is in accordance with Federal, State and local laws, which may restrict the release of family information. The HACM's practices and procedures are designed to safeguard the privacy of applicants and program participants.

HACM staff will not discuss family information contained in files unless there is an appropriate reason to do so. Inappropriate discussion of family information, or improper disclosure of family information by staff will result in disciplinary action.

M. FAMILY OUTREACH

The HACM will publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families on a regular basis. When the HACM's waiting list is open, the HACM will publicize the availability and nature of housing assistance for very low-income families in a newspaper of general circulation, minority media, and by other suitable means.

The HACM will communicate the status of housing availability to other service providers in the community, advise them of housing eligibility factors and guidelines in order that they can make proper referrals for housing assistance.

N. OWNER OUTREACH [24 CFR 982.54(d)(5)]

The HACM encourages owners of decent, safe and sanitary housing units to lease to Housing Choice Voucher families. The HACM encourages and promotes program participation by owners of units located outside areas of poverty or minority concentration. The HACM periodically evaluates the demographic distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted. The purpose of these activities is to provide more choices and better housing opportunities to families. Voucher holders are informed of the full range of areas where they may lease units inside the HACM's jurisdiction and given a list of landlords or other parties who are willing to lease units or help families who desire to live outside areas of poverty or minority concentration.

The staff of the HACM initiates personal contact with private property owners and managers by conducting formal and informal discussions and meetings.

Printed material is offered to acquaint owners and managers with the opportunities available under the program.

The HACM has active participation in a community-based organization(s) comprised of private property and apartment owners and managers.

The Housing Authority will actively recruit countywide property owners and grant exception rents for accessible and countywide properties if the HACM has jurisdiction in that area.

The HACM conducts periodic meetings with participating owners to improve owner relations and to recruit new owners.

Chapter 2

ELIGIBILITY FOR ADMISSION

[24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]

INTRODUCTION

This Chapter defines both HUD's and the HACM's criteria for admission and denial of admission to the program. The policy of the HACM is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. The HACM staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by the HACM pertaining to their eligibility.

A. ELIGIBILITY FACTORS [24 CFR 982.201 (B)]

HACM accepts applications only from families whose head or spouse is at least 18 years of age or emancipated minors under State law.

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by the HACM.

The HUD eligibility criteria are:

- An applicant must qualify as a "family"
- An applicant must be within the appropriate Income Limits
- An applicant must furnish Social Security numbers for all family members age six and older
- An applicant must furnish declaration of Citizenship or Eligible Immigrant Status and verification where required

At least one member of the applicant family must be either a U.S. citizen or have eligible immigration status before HACM may provide any financial assistance.

Reasons for denial constitute additional admission criteria.

For the HACM's additional criteria for eligibility, see Section F, "Other Criteria for Admission."

The Family's initial eligibility for placement on the waiting list will be made in accordance with the eligibility factors.

Evidence of Citizenship/Eligible Immigrant Status will not be verified until the family is selected from the waiting list for final eligibility processing for issuance of a Voucher, unless the HACM determines that such eligibility is in question, whether or not the family is at or near the top of the waiting list.

B. FAMILY COMPOSITION [24 CFR 982.201(c)]

The terms “family” and “household” have different meaning in the HCV program. A “family” includes, but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

- (1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person or any other single person; or
- (2) A group of persons residing together and such group 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 member of the family).
 - An elderly family
 - A near-elderly family
 - A disabled family
 - A displaced family
 - The remaining member of a tenant family

A remaining member of a resident family, meaning a family member of an assisted resident family who remains in the unit when other members of the family have left the unit.

Other families are defined by the HACM as follows:

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

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

Head of Household and Family Separation and Retention of Wait List Placement

The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law. Emancipated minors who qualify under State law will be recognized as head of household.

For an applicant, Head of Household will be determined by who is designated on the original application. However, if a family unit separates while presently on the waiting list, the HACM will make every effort to encourage the family members to decide on who will retain the Housing Choice Voucher application. Under no circumstances shall the authority allow the separate households to be admitted as two applicants to the wait list.

The applicant, or Head of Household, is not allowed to switch a member on the application, or to add a member as Head of Household in order to receive a preference.

Example: Head of Household adds grandfather to application, but switches the grandfather to Head of Household in order to receive Veteran Status.

A new application on the waiting list, also is not acceptable, if the Head of Household is, in this particular case, the grandfather, and the same family members are on the application. A new application would only be acceptable, for an example, with the grandfather as the Head of Household, as long as the family members on the application were not family members of the other application.

The original Head of Household must remain the Head of Household, except for a split in the family as explained below.

If the family cannot agree on whom will retain the Housing Choice Voucher application and there is no court determination, the HACM shall use the following guidelines to determine who will retain the application based on HACM's determination of the evidence presented:

1st Priority

Given to victims of domestic violence if domestic violence is a contributing cause of the family breakup.

2nd Priority

Given to the adult member of the household who retains primary physical custody of the majority of the household's minor children.

3rd Priority

Given to the adult member of the household who is disabled.

4th Priority

Given to the adult member who initially applied, if another adult member was added at a later time.

Note: If all of the circumstances do not apply and the only adult member left on the application is an adult member that was not added at the initial submission of the application, that adult member will not have residual rights to the application, and will need to reapply to the Housing Choice Voucher Program.

The HACM shall require verification of the above circumstances. If either or both of the families do not provide the documentation requested by the HACM, removal from the waiting list for failure to supply requested verifications will occur.

Spouse of Head

Spouse means the husband or wife of the head.

For proper application of the Non-citizens Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced or marriage dissolved. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

Co-Head

An individual in the household who is equally responsible for the lease with the Head of Household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

Live-in Attendants

A Family may include a live-in aide provided that such live-in aide:

Is determined by the HACM to be essential to the care and well being of an elderly person, a near-elderly person, or a person with disabilities;

Is not obligated for the support of the person(s); and

Would not be living in the unit except to provide care for the person(s).

A live-in aide is treated differently than family members:

Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.

Live-in aides are not subject to Non-Citizen Rule requirements.

Live-in aides may not be considered as a remaining member (residual member) of the tenant family.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above. Family members of a live-in attendant may not reside in the unit.

A live-in aide may only reside in the unit with the approval of the HACM. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly or disabled.

At any time, the HACM will refuse to approve a particular person as a live-in aide or may withdraw such approval if:

1. The person has been on a federal housing program and evicted from public housing or terminated from Housing Choice Voucher due to program violation.
2. The person owes any amounts of money to any federal housing program.
3. The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program; commits drug-related criminal activity, or violent criminal activity. The person commits other criminal activity or abuses alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents, HACM employees and agents, and persons residing in the immediate vicinity of the premises.
4. The person has employment outside of the home.
5. Another person is residing in the unit who is capable of providing the care for participant.
6. Participant requiring live in aide must supply the HACM with verification from a reliable, knowledgeable professional, such as a medical doctor, social worker or caseworker. The verification must demonstrate that a live-in aide is necessary and the family would not be equally well served by a home health care service or a care provider who does not live in the unit. This verification will be required to be given to the HACM at the initial time the live-in aide begins to reside in the subsidized unit.
7. Other additional family members of live in care attendant reside in unit with participant.
8. In instances where the family receives payments from Human Services through the In Home Supportive Services (IHSS) program, and the live-in aide reported to the HACM is not the same person on the record with IHSS.

9. The live-in aide's qualification for housing occupancy terminates when the individual needing the supportive services leaves the unit or fails to qualify for continued occupancy or where the need for live in assistance ceases. The live-in aide does not qualify for continued occupancy as a remaining member of the tenant family, even if they are related by blood, marriage or operation of law.

Multiple Families in the Same Household

When families apply which consist of two families living together, (such as a mother and father, and a daughter with her own husband or children), if they apply as a family unit, they will be treated as a family unit.

Joint Custody of Children

Children who are subject to a joint custody agreement but live with one parent at least 51% of the time will be considered members of the household. "51% of the time" is defined as 183 days of the year, which do not have to run consecutively.

When both parents are on the Waiting List and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

In some instances both parents will have joint custody of a child, and the child will reside with one parent more than 51 percent of the time, but the other parent will receive the welfare benefits for the child. In these cases the HACM will consult with the welfare department and review the court ordered visitation documents. HACM will make a determination based on the information presented.

Other factors that the HACM will consider to determine subsidy standard and/or deductions from annual income are:

- Which family takes the child as a dependent on the most recent Federal Income Tax Return.
- School records showing address of child.
- Who pays for the primary medical care of child.
- Any other court documents pertaining to custody or details of support for the child.
- Whose name and address appear on the SS and/or SSI income records with Social Security for the child's benefits.

Restrictions on Individuals Who are Enrolled at an Institution of Higher Education and Applying for Section 8 Assistance in their Individual Capacity.

Students enrolled at an institution of higher education who are under the age of 24, not a veteran, unmarried, and do not have a dependent child, AND are

seeking Seeking Section 8 assistance in their individual capacity (separate from their parents), may not be eligible for assistance unless they pass a two-part income eligibility test.

This income test requires that both the student and the student's parents (the parents individually or jointly) must be income eligible for the student to receive Section 8 assistance. If it is determined that the parent are not income eligible, the student is ineligible to receive Section 8 assistance.

Most definitions that apply to the new "Student Rule" are outlined in the Supplementary Guidance dated April 10, 2006, regarding Eligibility of Students for Assisted Housing under Section 8 of the U.S. Housing Act of 1937. However, this HUD Notice requires that housing authorities adopt their own definition of "veteran" and "parents" under this rule. Therefore, the HACM has adopted these definitions:

"Veteran" means a person who served in the active military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable.

HUD defines "*parents*" for the purposes of Section 8 Program to mean the biological or adoptive parents, or guardians (e.g., step-parents, grandparents, aunt/uncle, godparents, etc.). The HACM will adopt this definition without adding any further stipulations.

C. INCOME LIMITATIONS [24 CFR 982.201(b), 982.353]

In order to be eligible for assistance, an applicant must:

Have an Annual Income at the time of admission that does not exceed the very low-income limits for occupancy established by HUD.

To determine if the family is income-eligible, the HACM compares the Annual Income of the family to the applicable income limit for the family's size.

Families whose Annual Income exceeds the income limit will be denied admission and offered an informal review.

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. ELI families are defined as very low-income families whose annual income does not exceed the higher of the Federal poverty level or 30 percent of Area Median Income.

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 in any of the following categories:
 - A low-income family that has been "continuously assisted" under the 1937 Housing Act. (An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program. Programs include Public Housing, all Housing Choice programs, and all Section 23 programs).
- 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

Note: Once families are briefed their annual income is "frozen" until lease up. If the families acquire additional income, the additional income will be verified and reviewed and added as an interim AFTER LEASE UP. However, if the additional income puts the family over the very low-income limit for the program before leaseup, the family's voucher will be withdrawn and the family will be denied admittance to the program.

For admission to the program (initial lease-up): The family must be within the extremely low-income limit, or the very low-income limit of the HACM's jurisdiction. HACM will pull 75% of targeted income at the extremely low-income limits. Local preferences will adhere to this income targeting, as well as the Family Unification Program.

A family that is continuously assisted under the 1937 Housing Act is excluded from income targeting requirements and is not included in the percentages for income targeting. An applicant is a continuously assisted family if the family has received assistance under any 1937 Housing Act program. Programs include public housing, all Housing Choice Voucher programs, all Section 23 programs. Also excluded from income targeting are the following:

A low-income family physically displaced by rental rehabilitation activity under 24 CFR part 511.

A low-income non-purchasing family residing in a project subject to a homeownership program under 24 CFR 248.173.

A low-income family displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.101.

A low-income family residing in a HUD-owned multifamily rental housing project when the project is sold, foreclosed or demolished by HUD. (Certificate program only.)

A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project.

Portability: For new admissions, port in families must be within the very low-income limit of the HACM's jurisdiction.

D. MANDATORY SOCIAL SECURITY NUMBERS [24 CFR 5.216, 5.218]

Families are required to provide verification of Social Security Numbers for all family members age 6 and older prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

An applicant family will have a 90-day period during which they may become a program participant, even if the family lacks the documentation necessary to verify the Social Security Number (SSN) of a family member under the age of 6 years. An extension of one additional 90-day period must be granted if the HACM determines that, 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.

All members of the family must either:

1. Submit a VALID Social Security Number documentation; or
2. Sign a certification that they have not been issued a Social Security Number. If the family member is under the age of 18 at the time of admission, the

certification can be executed by his or her parent or guardian. Any family member who obtains a Social Security Number after or during admission shall submit the documentation with seven (7) calendar days of the Social Security Number being issued; or

3. If the person discloses their Social Security Number but cannot provide verification, they must sign a certification and provide verification within 90 days. Elderly persons must provide verification within 120 days.

Failure to furnish verification of a VALID Social Security Number or to report the receipt of a VALID Social Security Number, or report to the HACM of an invalid Social Security Number will be grounds for denial or termination of assistance.

E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS [24 CFR Part 5, Subpart E]

In order to receive assistance, at least one family member must be a U.S. citizen or eligible immigrant. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD. For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined. Families will not be admitted to the Program until each family member's eligibility has been verified under the non-citizenship rule.

Mixed Families. A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed." Such applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

All members ineligible. Applicant families that include no eligible members are ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Non-citizen students. Defined by HUD in the non-citizen regulations and is not eligible for assistance.

Appeals. For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

Verification of Status Before Admission

The HACM will not provide assistance to families until each family member's eligibility or ineligibility has been verified. The HACM will not provide assistance until the verification of *eligibility* for the individual family member or at least one member of the family has been made.

F. OTHER CRITERIA FOR ADMISSIONS [24 CFR 982.552(b)]

If an applicant is or has been a victim of domestic violence, dating violence or stalking, this is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission

A family will be denied admission to the program if any member of the family fails to sign and submit consent forms for obtaining information required by HACM, including Form HUD-9886.

The HACM will apply the following criteria, in addition to the HUD eligibility criteria, as additional grounds for denial of admission to the program.

- *Note: The family may be permanently prohibited from admission to the Housing Choice Voucher Program if they were previous participants in the Program or any other federally assisted housing and were terminated for any reason. An exception may be granted by the HACM, based on all the information presented on a case-by-case basis.*
- The Family must have not have violated any family obligation.
- If any member of the family has ever been evicted from federally assisted housing.
- If a Housing Authority has ever terminated assistance under the Certificate or Voucher Program for any member of the family.
- The family must have paid any outstanding debt owed to the HACM or other housing authority or amounts paid to the owner by a housing authority as a result of prior participation in any federal housing program. The family will be required to pay the balance in full prior to final eligibility determination, but not before being placed on the waiting list. If the debt is not paid in the designated time period set by the HACM during the eligibility process, the application will be withdrawn. The family must submit a new application. In no case will the debt be forgiven.
- If any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- If any family member has engaged in or threatened abusive or violent behavior toward Housing Authority personnel.

Abusive or violent behavior toward Housing Authority personnel includes verbal as well physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is

customarily used to insult, harass, or intimidate, may be cause for termination or denial.

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

Actual physical abuse or violence will always be cause for termination.

- The family's action or failure to act.
- If any member of the family fails to sign and submit consent forms for obtaining information.
- If any member of the family does not submit required evidence of citizenship or eligibility immigration status, or if there is no eligible member of the family.
- If any household member is currently or has engaged in drug related criminal activity or violent criminal activity. The minimum exclusion shall be 5 years. HACM may consider extenuating circumstances in appropriate cases. (The Five-year minimum time period is only for new admissions and does not pertain to family members who were terminated from the program due to drug related or violent criminal activity, or other criminal activity. That may be a permanent prohibited admission to the program.)
- If any household member is currently engaged in or has engaged in other criminal activity which may threaten the health or safety of the premises by, other residents, or persons residing in the immediate vicinity or which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the HACM, including a HACM employee, contract or subcontractor or agent.
- If any household member is subject to a lifetime registration requirement under a State sex offender registration program, they are permanently prohibited from admission to the Housing Choice Voucher Program.
- If any household member has been convicted of manufacturing or producing methamphetamine in a building or complex assisted under the public housing or Housing Choice Voucher Programs, they are permanently prohibited admission to the Housing Choice Voucher Program.
- If any household member has an abuse or pattern of abuse of alcohol that may adversely affect the health or safety of, or the right to peaceful enjoyment of the premises by, other residents and persons residing in the immediate vicinity of the premises or if the HACM believes it has reasonable cause to believe the family

member has in the past *five years* a criminal record that substantiates the pattern of abuse of alcohol.

The HACM **may** waive or reduce the minimum *five-year time period requirement* for drug use or alcohol abuse or other criminal activity of a household member if:

- The circumstances leading to the eviction or termination no longer exist. For example, the individual involved in drugs is no longer in the household because the person is incarcerated; or
- If the person engaging in the activity has successfully completed a supervised drug or alcohol rehabilitation program; or
- Has otherwise been rehabilitated successfully; or
- Is participating in a supervised drug or alcohol rehabilitation program.

Families with drug-related, violent criminal activity, or other criminal activity older than five years will be considered for admission to the program on a case-by-case basis.

Criminal Background Checks:

The Housing Authority will conduct criminal background checks on all adult members of the family at time of consideration of eligibility.

Background checks and denials based thereon may occur before or after admission and/or occupancy to the program.

Purpose

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize and/or harass neighbors. It is the intention of the Housing Authority of the County of Merced to fully endorse and implement a policy, which is designed to:

Help create and maintain a safe and drug-free community

Keep our program participants free from threats to their personal and family safety

Support parental efforts to instill values of personal responsibility and hard work

Help maintain an environment where children can live safely, learn and grow up to be productive citizens

Assist families in their vocational/educational goals in the pursuit of self-sufficiency

Administration

All screening and termination procedures shall be administered fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, or other legally protected groups.

To the maximum extent possible, the HACM will involve other community and governmental entities in the promotion and enforcement of this policy.

The fact that an applicant or tenant was arrested for a disqualifying offense shall not be treated or regarded as proof that the applicant or tenant engaged in disqualifying criminal activity. The arrest may, however, trigger an investigation to determine whether the applicant or tenant actually engaged in disqualifying criminal activity. As part of its investigation, HACM may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The HACM may also consider any statements made by witnesses or the applicant or tenant 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; and any other evidence relevant to determine whether or not the applicant or tenant engaged in disqualifying activity.

Screening of Applicants

In an effort to prevent future illegal drug related, violent criminal activity and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, the HACM will endeavor to screen applicants as thoroughly and fairly as possible.

Such screening of new admissions will apply to any member of the household who is 18 years of age or older or who is an emancipated minor, including a live-in aide. Criminal background checks will also be conducted on any adult being added to a participant's family composition, including a live-in aide.

All adult members of families who port into HACM's jurisdiction, whether a new admission or a participant, will be screened for criminal background history.

Any violations as stated in the above paragraphs will be grounds for termination/denial of admission.

HUD Definitions

Drug-related criminal activity is the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance. Drug-related criminal activity means *on or off the premises, not just on or near the premises*.

Premises is defined as the building or complex in which the dwelling unit is located, including common areas and grounds. (Federal Register 2/18/99-QHWRA Initial Guidance)

Violent criminal activity includes any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property, and the activity is being engaged in by any family member, which could include a live-in aide.

Other criminal activity includes criminal activity, which may threaten the health or safety of the owner, property management staff, HACM employee, residents of the premises, or persons residing in the immediate vicinity of the premises.

Standard for Violation

The HACM will deny participation in the program to applicants and terminate assistance to participants in cases where the HACM determines there is reasonable cause to believe that the person (person also can include a live-in aide) is either illegally using a controlled substance, or if the person abuses/abused alcohol, or engages/engaged in violent criminal activity, or commits/committed any other criminal activity that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises), or by persons residing in the immediate vicinity of the premises.

“Engaged in or engaging in” violent criminal activity means any act by applicants or participants, household members, or guests which involves criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person of another, which did or did not result in the arrest and/or conviction of the applicant or participant, household members, guests, or live-in aide.

Housing Authority Discretion

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the HACM has discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, the length of time since the violation occurred and more recent record of compliance, and the effects of denial or termination of

assistance on other family members who were not involved in the action or failure to act.

The HACM may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The HACM may permit the other members of a family to continue in the program.

Notice of Denial of Assistance

In any case where the HACM decides to deny assistance to a family, the HACM must give the family written notice which states:

The reason(s) for the proposed denial,

The family's right, if they disagree, to request an Informal Review

The date by which a request for an informal review must be received by the HACM.

Required Evidence

Preponderance of 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. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence. The HACM may deny or terminate assistance if the preponderance of evidence indicates that a family member has engaged in such activity, regardless of whether the family member has been arrested or convicted.

Credible evidence may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.

- The HACM may pursue fact-finding efforts as needed to obtain credible evidence; however, the HACM may deny or terminate assistance based only on preponderance of evidence as stated above.

Domicile (Primary Residence/Legal Residence)

Domicile is defined as a family's legal place of residence. It is the location where an individual or individuals claim their residence of first choice and spend a significant amount of their time residing at that location and caring about their affairs through that location. Domicile may be established by at least two of the following documents:

1. An individual receiving correspondence at that address;
2. An individual having a vehicle or vehicles registered with that address;
3. An individual listing the residence address on their driver's license or other personal identification cards or listings;
4. An individual listing the residence in connection with any employment of that individual;
5. An individual whose name is listed at the residences addressed for purposes of utility bills or other services provided at that residence address;
6. An individual who uses the residence address to register to vote;
7. Attendance of dependents at a primary or secondary school;
8. Filing a homeowner's property tax exemption;
9. Renting or leasing a home for use as a residence;
10. Recent marriage or divorce records issued in California;
11. Recent California court documents showing an address; or
12. Police records from a California law enforcement agency.

Documents ***not acceptable*** as verification of residency are:

- A declaration or an affidavit can only be used in support with at least two of the above verifications:

Domicile residence can also be established on the basis that an individual is observed, on a frequent basis departing from and returning to the residence. Domicile residence can further be established if an individual has resided at the residence in the capacity of a guest or visitor for a majority of any two week period of time, or a total of thirty (30) days in a 12 month period.

G. TENANT SCREENING [24 CFR 982.307]

The HACM will take into consideration any of the admission criteria described in this Chapter as well as Chapter 15, "Denial or Termination of Assistance" but will not screen for family behavior or suitability for tenancy. The HACM will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before HACM approval of the tenancy, the HACM will inform the owner that screening and selection for tenancy is the responsibility of the owner.

The owner is responsible for screening families based on their tenancy histories, including such factors as: [24 CFR 982.307(a)(3)]

- 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.

Information to Owners Regarding Housing Choice Voucher Clients

Federal Regulations (24 CFR 982.307) require that the PHA must give the owner the family's current address (as shown in the PHA records); and the name and address (if known to the PHA) of the owner at the family's current and prior address.

The HACM has adopted the following additional policy regarding information that is provided to your current or prospective owner:

The HACM will provide information in the HACM possession about the family composition, and rating of past housekeeping. Income amounts and income sources will not be provided to the owner, nor unverified sources of information that are in the family's files, i.e. anonymous phone calls.

The HACM will give the same types of information to the owners for all families.

The HACM will advise families how to file a Fair Housing complaint if they have been discriminated against by an owner. The HACM may also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

H. CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT

Changes that occur during the period between issuance of a voucher and lease up may affect the family's eligibility or Total Tenant Payment. For example, if a family goes over the very low-income limit prior to lease up, the applicant will no longer be eligible for the program. They will be notified in writing of their ineligible status and their right to an informal review.

Once families are briefed their annual income is "frozen" until lease up. If the families acquire additional income, the additional income will be verified and reviewed and added as an interim AFTER LEASE UP. However, if the additional income puts the family over the very low-income limit for the program before leaseup, the family's voucher will be withdrawn and the family will be denied admittance to the program.

If the HACM is pulling an application pool off the waiting list of families at or below 30% of median income; and if a determination is made by the HACM staff before issuance of the voucher, that some families are above the 30% of median income, these families will be put back on the waiting list with the same date and time and, if applicable, local preference, until such time as applicants are being pulled who are above the income targeting rate of 30% of median income.

I. INELIGIBLE FAMILIES

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to noncitizen status. See Chapter on, "Complaints and Appeals" for additional information about reviews and hearings.

J. PROHIBITED ADMISSIONS CRITERIA [24 CFR 982.202(b)]

Admission to the program may not be based on where the family lives before admission to the program.

Note: If family did not have a domicile residence in Merced County at the time of application, then the family must lease up in Merced County for one year before using portability features.

Admission to the program may not be based on:

Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.

Discrimination because a family includes children.

Whether a family decides to participate in a family self-sufficiency program; or

Other reasons as listed in the “Statement of Policies and Objectives” chapter under the Fair Housing and Reasonable Accommodations sections.

Chapter 3

PRE-APPLICATION PROCESS

[24 CFR 982.204]

INTRODUCTION

The policy of the HACM is to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply, and are treated in a fair and consistent manner. At the time the waiting list is open, families wishing to participate in the Housing Choice Voucher (HCV) program must submit a pre-application providing all information requested by the HACM. This information allows the HACM to place each applicant on the waiting list in accordance with the policies in this Administrative Plan.

This section covers an overview of the initial pre-application intake process. It will explain the HACM policies on how to notify the public of the opening and closing of the waiting list. It also describes how an applicant may apply for rental assistance and how the HACM will handle the pre-application it receives.

The Pre-application Process:

Opening and closing of the pre-application intake list:

The HACM shall announce its intent to accept pre-applications for the purpose of establishing a waiting list by placing a public notice in *The Merced Sun Star*, a local newspaper of general circulation, and also by minority media and other suitable means, including the agency website at www.merced-pha.com.

The notice will comply with HUD Fair Housing requirements. The notice will contain:

- The dates, times, and the locations where families may apply
- The program(s) for which pre-applications will be taken.
- A brief description of the program(s).
- The methods by which pre-applications will be accepted.
- Limitations, if any, on who may apply.

Normally, the opening and closing dates for pre-applications will be clearly stated in the notice. However, if at the time the pre-application list is opened, the closing date for pre-applications has not yet been determined, the notice will indicate that pre-applications will be accepted until further notice. Once it becomes necessary to close the pre-application list, the HACM will apply the same advertising methods of broad general circulation for closing the pre-application list as were used for opening the list.

FAMILY OUTREACH [24 CFR 982.266]

The HACM will conduct outreach as necessary to ensure that the HACM has a sufficient number of applicants on the waiting list to use the resources available.

Because HUD requires the HACM to serve a specified percentage of extremely low income families, the HACM may need to conduct special outreach to ensure that an adequate number of such families apply for assistance.

The HACM may utilize public service announcements.

FAIR HOUSING POLICY [24 CFR 982.54(d)(6)]

It is the policy of the Housing Authority to comply fully with all Federal, State, and local Non-discrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

The HACM shall not deny any family or individual the opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, religion, sex, national origin, age, familial or marital status, disability, sexual orientation and gender identity.

HOW TO APPLY

The HACM is permitted by HUD to determine the format and content of pre-applications. For the purpose of establishing a waiting list, pre-applications will be accepted from any family wishing to apply for Housing Choice Voucher rental assistance. The HACM may select one or more of the following methods for pre-applications:

1. Online
2. By phone
3. By mail
4. Submitted in person
5. By other method as described in the public announcement

At the time the HACM announces its intent to open the waiting list, the actual methods for accepting pre-applications will be clearly stated in the public announcement and similar outreach methods. If an applicant is disabled and requires special accommodation, specific instructions in making a reasonable accommodation request will be included in the public notice and other pre-application outreach materials.

Pre-application by Web

When this method is available, families can apply on-line at www.merced-pha.com.

Pre-application Intake by Phone or by Mail

When this method is available, pre-applications will be taken by phone or mail. HACM will record the date and time the pre-application is received.

Pre-application Intake In-Person

When this method is available, pre-applications will be completed by the family. The HACM will record the date and time the pre-application is received.

Duplicate pre-applications, including pre-applications from a segment of an applicant household, will not be accepted.

Methods for Placement on the Waiting List:

- **Lottery:**
The Housing Authority may use a lottery system to select and place families on the waiting list. Pre-applications will be accepted for a designated period of time as specified in the announcement notice. After pre-applications are no longer being accepted, the Housing Authority will take pre-applications that have been submitted and randomly assigned a lottery number to each pre-application. The number of applicants selected for the list will be based on the number of families required to achieve a sufficient waiting list as determined by the HACM.
- **Date and Time:**
The Housing Authority may use a date and time system to select and place families on the waiting list. Pre-applications will be accepted for a designated period of time as specified in the announcement notice. The number of applicants selected for the list will be based on the number of families required to achieve a sufficient waiting list as determined by the HACM.

Placement on the Waiting List:

The HACM may send a written notification to all households selected for placement on the waiting list. Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

Special Admissions (non-waiting list): Assistance Targeted by HUD [24 CFR 982.203]

If HUD awards the HACM program funding that is targeted for families living in specified units:

- The HACM must use the assistance for the families living in these units.
- The HACM may admit a family that is not on the HACM waiting list, or without considering the family's waiting list position.
- The HACM must maintain records showing that the family was admitted with HUD-targeted assistance.

The following are examples of types of program funding that may be targeted for a family living in a specified unit:

- A family displaced because of demolition or disposition of a public housing project;
- A family residing in a multifamily rental housing project when HUD sells, forecloses, or demolishes the project;
- For housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990;
- A non-purchasing family residing in a project subject to a homeownership program (under 24 CFR 248.173);

- A family displaced because of mortgage prepayment or voluntary termination of a mortgage insurance contract (as provided in 24 CFR 248.165);
- A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and
- A non-purchasing family residing in a HOPE 1 or HOPE 2 project period.

Targeted Admissions

HACM periodically has the opportunity to apply for targeted funding for special populations. The programs covered in this chapter refer to the following:

- Family Unification Program (FUP)
- Veteran’s Affairs Supportive Housing (VASH) program
- Shelter Plus Care program (SPC)

Specific criteria related to these programs are covered in the charts below.

Continued Assistance for Targeted Programs

Targeted Programs refers to special purpose vouchers operated within the Housing Choice Voucher program and are intended to serve specific subpopulations and often correspond with supportive services. Although most of these programs provide ongoing housing assistance as long as the household is income eligible, some have an expiration period or can terminate eligibility if supportive services or funding cease to exist. HACM recognizes that this practice could potentially result in homelessness or other unstable living conditions, therefore, will exercise the option to continue assistance to such populations under the Housing Choice Voucher program. This option will be available to Targeted Programs such as, but not limited to:

- Family Unification Program – FUP
- Veteran Affairs Supportive Housing Program – VASH
- Shelter Plus Care program – SPC

In effort to align with voucher utilization goals, continued assistance for targeted program participants (Except FUP-Youth) will only be considered when 1) the program making the request is at 98% utilization or above; 2) tenant-based vouchers are available; and 3) the transfer would not result in over leasing under the tenant-based voucher program. The intent of providing the continued assistance option is to:

- Create attrition and availability of targeted program vouchers to targeted subpopulations with special needs.
- Allow participants who no longer require the supportive services to retain housing, but still need rental subsidy, the opportunity to “graduate” from a targeted program to the next level towards independence.
- Provide continuity and housing stability for youth who have an expiring FUP voucher.

Pre-Entry Factors Related to Targeted Programs			
Program Specific Criteria	VASH	FUP	SPC
Eligibility Criteria	<p>VAMC Determination of Veteran status by VAMC. They are also responsible for documenting homelessness according to HACM.</p> <ul style="list-style-type: none"> Income eligibility; up to 50% AMI Citizenship Verification Criminal Background Check for Lifetime Sexual Offender 	<ul style="list-style-type: none"> Families for whom lack of adequate housing is a primary factor in the separation or threat of imminent separation of a child or children from their families Youths (18-21years old) who left foster care at age 16 or older and lack adequate housing Families or youths displaced by domestic violence and lack adequate housing 	<ul style="list-style-type: none"> Homeless, as defined by the Stewart B. McKinney Homeless Assistance Act as funded by the U.S. Department of Housing and Urban Development [<u>42 USC 11302</u>]; AND Disabled, as defined by the U.S. Department of Housing and Urban Development [<u>24 CFR 582.5</u>] The household's annual income may not exceed the very low income limit, as established by the U.S. Department of Housing and Urban Development, and the applicant must need the subsidy
Outreach Responsibility	VAMC (primary) & HACM (secondary)	HACM and Human Services Agency (HSA)	HACM and Mental Health Agency (MH)
Partnership or MOU?	MOU between HACM & VAMC	MOU between HACM and HSA	MOU between HACM and MH
Requires Referral? Y/N	Yes	Yes	Yes
Pre-Application Process	Handled by VAMC	HCV Pre-Application and Referral Form	Handled by MH
Referral Process	<p>Referrals handled by VAMC</p> <ul style="list-style-type: none"> VAMC Social Worker refers VASH eligible households HACM notifies VAMC when a voucher is vacated. VAMC maintains the waitlist of pre-screened applicants 	HSA refers FUP-eligible families or youth by submitting a completed HCV Pre-application Form and eligibility packet	MH refers S+C-eligible individuals by submitting a completed HCV Pre-application Form and eligibility packet

Pre-Entry Factors Related to Targeted Programs			
Program Specific Criteria	VASH	FUP	SPC
Placed on HCV Waiting List?	No.	<ul style="list-style-type: none"> • Yes. FUP eligible families and youth are placed on HCV waiting list and coded as "FUPF" or "FUPY" respectively. • HACM will check to see if the referred family/youth is on existing HCV waiting list and code them accordingly. • If FUP-eligible families or youths are not on the existing open HCV waiting list, HACM will add the family/youth on the HCV waiting list in date and time order of the referral and code them accordingly. • If the existing HCV waiting list is closed and there is availability of FUP voucher(s), HACM will open the HCV waiting list to accept FUP program-specific HCV pre-applications. 	No
Selection from the HCV Waiting List	N/A	<p>HACM will select from the tenant- based waiting list according to date and time of FUP referrals.</p> <p>HACM may pull only FUP program-specific applicants in date and time order of the referral.</p>	N/A
Must Meet HCV Voucher Eligibility? Y/N	Yes, except will be required to undergo criminal background check only regarding registered sex offenders.	Yes. Must meet income and other voucher eligibility requirements. If requirements are not met, the FUP-eligible family or youth will not be eligible to be placed back on the HCV waiting list.	Yes. Must meet income and other voucher eligibility requirements.
Program Specific Screening Criteria Y/N	Required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. (24 CFR 982.553[2])	Required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. (24 CFR 982.553[2])	Required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. (24 CFR 982.553[2])

Pre-Entry Factors Related to Targeted Programs			
Program Specific Criteria	VASH	FUP	SPC
Voucher Expiration	60 Days with opportunity for extension up to a maximum of 120 days	60 Days with opportunity for extension up to a maximum of 120 days	60 Days with opportunity for extension up to a maximum of 120 days
Portability Option? Y/N	<p>Yes, there are two types of portability for HUD-VASH:</p> <p>(1) Type 1. Type 1 is for a Veteran or Veteran's family who wishes to live in a town within the catchment area of the VA medical center that is outside the area covered by the PHA where the voucher is allocated. The Veteran must be able to continue with case management services provided by the VA medical center to port the voucher. The PHA covering the area where the Veteran chooses to live would receive the voucher and would follow HUD rules for administering this voucher.</p> <p>(2) Type 2. Type 2 is for a Veteran or Veteran's family accepted into HUD-VASH who wishes to move outside of the catchment area to another jurisdiction where it is not possible for the admitting VA medical center to provide case management services. The VA medical center working with the Veteran must first determine that the Veteran's family could be served by another HUD-VASH Program in the area where the Veteran wishes to live and the receiving PHA must have a HUD-VASH voucher available for this family. The families must be absorbed by the receiving PHA either as a new admission (upon initial participation in the HUD-VASH Program), or as a portability move-in (after an initial leasing in the initial PHA's jurisdiction).</p>	Yes, same as HCV	No

	Upon absorption, the first PHA's HUD-VASH voucher will be available to lease to a new HUD-VASH eligible family and the absorbed family counts toward the number of HUD-VASH slots awarded to the receiving PHA. The receiving PHA must process this move in accordance with the portability procedures.		
Program Specific Grounds for Termination of Assistance	Families that fail to comply with case management requirements as determined by the VAMC must be terminated from the voucher program. Any violation of the Statement of Family Obligations as referenced in Chapter 15 Terminations will result in termination from the voucher program.	No. Case management for youth must be offered but non-compliance with case management cannot be used as grounds for non-compliance.	Individuals that fail to comply with case management requirements as determined by the MH must be terminated from the voucher program. Any violation of the Statement of Family Obligations as referenced in Chapter 15 Terminations will result in termination from the voucher program.

Separate Waiting Lists for Housing Authority Programs

In accordance with HUD regulations (24 CFR 982.205 (ii)) at the time an applicant is applying for HCV assistance, if pre-applications are being accepted for its Public Housing or Project-Based program, the family must be offered an opportunity to apply for the other program.

PRE-APPLICATION [24 CFR 982.204]

Pre-application will include the following:

For head of household:

- Social Security number
- First, middle initial and last name
- Date of birth
- Gender
- Street address, city, state and zip
- Contact phone number

- Race
- Ethnicity
- E-Mail Address
- Source of Income, if applicable
- Total Monthly Income, if applicable

For other family members:

- For each member:
 - first and last name;
 - relationship to head of household;
 - date of birth
 - gender
 - Race
 - Ethnicity
 - Source of Income, if applicable
 - Total monthly income, if applicable

Other information:

- Identify whether any household member is a person with disabilities. and/or a person with a mobility impairment needing an accessible unit (wheelchair accessible)
- Selected preference, if applicable.

Chapter 4

WAITING LIST AND TENANT SELECTION

[24 CFR 982.54, 982.203 - 207]

INTRODUCTION

This chapter will explain the HACM's policies for managing the waiting list and selecting families for HCV assistance. It also specifies the methods used to ensure that HACM has the information needed to make a final eligibility determination.

WAITING LIST ESTABLISHMENT [24 CFR 982.204 and 205]

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

At the time of the pre-application, any information indicating the applicant may qualify for a local preference (e.g., an applicant's certification that they reside within the jurisdiction qualifying them for the Residency Preference) will be accepted without verification. Actual entitlement for a local preference will be verified at initial eligibility determination.

The waiting list will be maintained in accordance with the following guidelines:

- The pre-application will be a permanent file.
- Pre-applications must include as a minimum the following information to be placed on the preliminary waiting list with the following information about each applicant:
 - 1) name
 - 2) family unit size
 - 3) date and time of the completed pre-application
 - 4) information pertaining to possible qualification for a local preference
 - 5) race and ethnicity of the head of household
- Pre-applications taken by a method other than lottery or random methodology will be maintained in order of date and time.

APPLICANT STATUS WHILE ON WAITING LIST [CFR 982.202 (c), 982.204]

No applicant has a right or entitlement to be listed on the waiting list, or to any particular position on the waiting list.

Applicants are required to inform the HACM in writing of changes of their address within 10 business days of the occurrence. This will also assist the HACM in establishing and maintaining a current and updated waiting list to effectively plan for future pre-application intake. Applicants are also required to respond to requests from the HACM to update information on their pre-application, or to determine their continued interest in assistance.

Families who are ineligible for the reason of only owing a debt to the HACM or any other Federal Housing Program will be allowed to have their pre-application placed on the waiting list. When the family is interviewed for placement into the Housing Choice Voucher Program, the family must pay the debt in full before the final eligibility process will continue.

If the family is determined to be ineligible based on the information provided in the pre-application, the HACM will notify the family in writing (in an accessible format upon request as a reasonable accommodation), state the reason(s), and inform them of their right to an informal review. Persons with disabilities may request to have an advocate attend the informal review as an accommodation. See Chapter 19 on, "Complaints and Appeals."

The waiting list will be maintained with accurate information.

APPLICANT PORTAL

The Applicant Portal has been established for persons that make a pre-application with Housing Authority of the County of Merced Housing Authority (HACM) so that they may create an on-line account to review and update their personal information, including their current address, as well as indicate their continued interest in remaining on the waiting list. As our primary mode of communication with the applicant is by mail, it is critical that we have a valid, current address at all times so that we will be able to make contact with the applicant.

PURGING THE WAITING LIST [24 CFR 982.204 (c)]

The primary goal in purging a waiting list is to obtain current information on interested applicants and to remove applicants no longer interested in participating in the program.

The waiting list will be purged as needed to ensure that all applicants and applicant information is current and accurate. To update the waiting list, the HACM will send an update request via first-class mail or e-mail to each family on the waiting list. The applicant will be asked whether the family continues to be interested in the program and will provide a deadline by which the family must respond. This update request will be sent to the last mail and/or e-mail address that the HACM has on record for the family. The collection of this form may be in an electronic format at the HACM's prerogative.

If no response is received by the deadline, the applicant is removed from the waiting list.

GROUND FOR CANCELLATION FROM THE WAITING LIST

The HACM will cancel the pre-application when the applicant does not respond to the HACM's request for response by a specific date, failure to attend a scheduled appointment or if a letter is returned by the Post Office.

Any mailings to the applicant which require a response by a specific deadline will state that failure to respond by the deadline will result in the applicant's name being removed from the waiting list.

If a letter is returned by the Post Office, the pre-application will be canceled without further notice, and the envelope and letter will be maintained in the file. Applicants may be reinstated after the HACM has conducted a review of the case and is approved. If the applicant did not respond to the HACM request for information or updates because of a family member's

disability, this fact will be verified and documented, and the HACM will reinstate the applicant in the family's former position on the waiting list.

SELECTION FROM THE WAITING LIST FOR ADMISSION [24 CFR 982.207].

As vouchers become available for admission, the HACM will select from its waiting list. Preference and application information will be verified and updated.

METHOD OF SELECTION [24 CFR 982.202(d) and 982.207 (c)]

The HACM selects families from the waiting list according to preferences, lottery number and/or the date and time of the pre-application.

Families who are selected from the waiting list shall be contacted by the HACM to complete a full intake packet for occupancy. Applicants may not retain their place on the waiting list if they refuse to complete the application process.

The HACM will conduct its method of selection so there is a clear audit trail that can be used to verify each applicant has been selected in accordance with the method specified in this administrative plan.

In the event eligibility information, such as criminal background checks, is received or obtained after an applicant is issued a voucher, that information, if it shows ineligibility, will be used to deny/terminate admission/assistance in HCV Program.

INITIAL DETERMINATION OF LOCAL PREFERENCE QUALIFICATION [24 CFR 982.207]

At the time of pre-application, an applicant's entitlement to a Local Preference may be made on the following basis:

- An applicant's self-certification that they qualify for a preference will be accepted at time of pre-application. **When the family is selected from the waiting list for the final determination of eligibility, the preference will be verified.**

If the preference verification indicates that an applicant does not qualify for the preference, the applicant will be returned to the waiting list without the Local Preference and given an opportunity for an informal review.

If an applicant is found to have provided false documentation in order to qualify for a Local preference, the HACM will permanently deny admission to the program for the family, and the family will be given an opportunity for an informal review.

Local preferences will not have the effect of disproportionately delaying or denying assistance to members of protected classes (race, color, religion, sex, national origin, age, familiar status, disability, sexual orientation or gender identity of any member of an applicant family).

LOCAL PREFERENCES [24 CFR 982.207]

The HACM may establish local preferences based upon housing need and priorities as determined by the agency. The local preferences are consistent with HACM's plan, the

Consolidated Plan, and based on local housing needs and priorities. HACM will offer public notice when changing its preference system and the notice will be publicized using the same guidelines as those for opening and closing the wait list.

Except for Targeted/Special Admissions: HUD VASH Program, Limited Preferences, and special non-waiting list admissions, applicants for Housing Choice Voucher Program assistance will be taken from the Housing Choice Voucher Program waiting list in order of the following local preferences:

Points:

250 Independent Living Skills Program: The HACM will designate 20 vouchers per calendar year dependent upon availability of funding. Foster youth/young adults transitioning from foster care and who lack adequate housing or are at risk for homelessness. Must be referred by partnering agency where MOU is in place.

100 Homeless Preference: The HACM will designate 100 vouchers per calendar year dependent upon availability of funding. Individuals or families who are referred to the HACM by a partnering homeless service organization that is a member of the Merced County Continuum of Care's centralized/coordinated assessment system and who meet the following criteria:

- An individual or family who lacks a fixed, regular and adequate nighttime residence meaning:
 - ✓ An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state or local government programs for low-income individuals)
 - ✓ An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution
 - ✓ A primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport or camping ground
- Any individual or family who:
 - ✓ Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; **and**
 - ✓ Has no other residence; **and**
 - ✓ Lacks the resources or support networks, e.g. family, friend, and faith-based or other social networks, to obtain other permanent housing

This preference shall be limited to applicants based on certification/referrals from identified agencies with which HACM has a written agreement. Eligibility criteria for referral will be developed by the referring agency in conjunction with the HACM.

If it is determined that an applicant does not meet the criteria described therein, the applicant will lose their preference points and will be returned to applicable HACM waiting list/s.

- 100 Veteran Preference:** Current members of the military, veterans, or surviving spouses of veterans may qualify for this preference. Applicants must provide proof of honorable discharge. If discharge is less than honorable, applicant must provide proof of eligibility to receive veteran benefits.
- 10 Involuntarily Displaced:** Families who have been displaced due to a locally declared disaster, state declared disaster, federally declared disaster or other national emergency. It will also be given to those families that are involuntarily displaced by HACM action (emergency relocation, extensive rehabilitation and insufficient funding or other local disasters) as approved by Executive Director.
- 10 Residency Preference:** Families who live, work, or have been hired to work within Merced County and /or residents. Applicants who are working or who have been notified that they are hired to work in a residency preference area must be treated as residents of the residency preference area.
- HUD regulations state that a residency preference must not be based on how long an applicant has resided or worked in a residency preference area.
- 10 Elderly or Disabled Person Preference:** An elderly preference applies if the head, spouse or co-head are a person who is age 62 or older. A disabled person preference applies if the head, spouse or co-head receives Social Security or Supplemental Security benefits or otherwise meets the definition of disabled as defined under Section 223 of the Social Security Act.

AMONG APPLICANTS WITH EQUAL PREFERENCE STATUS

In the event two or more applicants with identical preferences are eligible for placement on the waiting list, their order of placement will be determined by the order in which the family was randomly selected in the lottery process or the date and time of pre-application if a lottery was not conducted.

INCOME TARGETING

At least 75% of the families admitted to the HACM'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.

PREFERENCE DENIAL [24 CFR 5.415]

If HACM denies a preference, HACM will notify the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal review. If the preference denial is upheld, as a result of the review or the applicant does not request a review, the applicant will be placed on the waiting list without benefit of the preference. Applicants may exercise other rights if they believe they have been discriminated against.

If the applicant falsifies documents or makes false statements in order to qualify for any preference, they will be removed from the waiting list.

CHANGE IN CIRCUMSTANCES

Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference. Applicants are required to notify HACM in writing or via Applicant Portal when their circumstances change. When an applicant claims an additional preference, they will be placed on the waiting list in the appropriate order determined by the newly-claimed preference. The exception to this is, if at the time the family applied, the waiting list was only open to families who claimed that preference. In such case, the applicant must verify that they were eligible for the first preference before they are returned to the waiting list with the new preference.

If the family's verified annual income at final eligibility determination does not fall under the extremely low-income limit and the family was selected for income targeting purposes before family with a higher preference, the family will be returned to the waiting list. In addition, while the family is on the waiting list, the family must immediately inform HACM of changes in contact information, including current residence, mailing addresses and phone number. The changes must be submitted in writing or via Applicant Portal.

Families that qualify for a specified category of program funding (targeted funding) may be selected from the waiting list ahead of higher placed families that do not qualify for the targeted funding. However, within any targeted funding category, pre-applications will be selected on a first-come, first-served basis according to the date and time their complete pre-application is received or the assigned lottery number. Documentation will be maintained by the HACM 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 HACM does not have to ask higher placed families each time targeted selections are made.

OTHER HOUSING ASSISTANCE [24 CFR 982.205(b)]

Other housing assistance means a federal, state, or local housing subsidy, as determined by HUD, including public housing.

The HACM may not take any of the following actions because an applicant has applied for, received, or refused other housing: [24 CFR 982.205(b)]

- Refuse to list the applicant on the HACM waiting list for tenant-based assistance;
- Deny any admission preference for which the applicant is currently qualified;
- Change the applicant's place on the waiting list based on preference, date and time of pre-application or other factors affecting selection under the HACM selection policy; or
- Remove the applicant from the waiting list.

FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY [24 CFR 982.201]

After the verification process is completed the HACM will make a final determination of eligibility. This decision is based upon information provided by the family, the verification completed by the HACM, and the current eligibility criteria in effect. If the family is determined to be eligible, the HACM will either hand-deliver the notification at time of eligibility interview, mail, email or verbally notify the family of eligibility and orientation briefing.

If the family is not eligible, a letter will be sent denying admission with the reason given. Family will be provided an opportunity for an informal review.

Chapter 5

SUBSIDY STANDARDS

[24 CFR 982.402]

PURPOSE:

HUD guidelines require that the HACM to establish subsidy standards for the determination of voucher bedroom size, and that such standard provides for a minimum commitment of subsidy while avoiding overcrowding. The standards used for the voucher size selected by the family must be within the minimum unit size requirements of HUD's Housing Quality Standards and the HACM's subsidy standards. This Chapter explains the subsidy standards which will be used to determine the subsidy/voucher size for families of different sizes when they are first determined eligible for the HCV Program; as well as the HACM's procedures when a family's size changes or a family selects a unit size that is different from the voucher.

A. SUBSIDY/VOUCHER SIZE [24 CFR 982.402]

The HACM does not determine who shares a living/sleeping room. The HACM's subsidy standards for determining the family unit size shall be applied in a manner consistent with Fair Housing guidelines. All standards in this section relate to the size of the subsidy, not the family's actual living arrangements.

The family unit size on the voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

HUD regulations stipulate the following about the HACM's subsidy standards:

- The subsidy standards must provide for the smallest number of bedrooms (referring here to the subsidy) needed to house a family without overcrowding.
- The subsidy standards must be consistent with the space requirements under the Housing Quality Standards which require at least one living/sleeping room for every two persons.
- 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 HACM 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. The HACM will not approve an unidentified live-in aide; nor a larger unit than the family qualifies for under the HACM subsidy standards, for unidentified aide.

The below subsidy standards are intended to maximize the Housing Authority’s use of vouchers and to provide guidance in determining the number of bedrooms needed to house families without overcrowding, and is not intended to assign bedrooms or otherwise establish where any family member should sleep within the home:

- The HACM provides one room for the Head of Household (with Spouse, Co-Head, Registered Domestic Partner or Boyfriend/Girlfriend of the Head of Household, if any) and one additional room for every two persons regardless of age or gender.
- Foster children will be included in determining unit size only if they will be in the unit for more than six months.
- Live-in attendants will be provided a separate bedroom if the assisted unit is the attendant’s principle residence. No additional bedrooms are provided for the attendant’s family.
- Single person families shall be allocated one bedroom.

These general guidelines are used in determining Voucher size:

<u>Voucher Size</u>	<u>Persons in Household</u>	
	(Minimum #)	(Maximum #)
0 Bedroom	1	1
1 Bedroom	1	2
2 Bedrooms	3	4
3 Bedrooms	5	6
4 Bedrooms	7	8
5 Bedrooms	9	10
6 Bedrooms	11	12

B. EXCEPTIONS TO SUBSIDY STANDARDS (24 CFR 982.402(b)(8))

In determining family unit size for a particular family, the HACM may grant an exception to its established subsidy standards if the HACM determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances.

The HACM may grant an exception upon request as an accommodation for persons with disabilities. Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom due to a documented need, such as:

- A verified medical or health reason;
- Elderly persons or persons with disabilities who may require a live-in attendant;

Cases are determined on a case-by-case basis. The submission of an accommodation does not automatically entitle a family to a larger subsidy.

If a reasonable accommodation request is approved which requires a larger subsidy, the subsidy size will be increased at an interim recertification, effective the first day of the month following the date of the decision, or the date that the live-in aide passes the background check, whichever comes later.

The HACM will not issue a larger subsidy/voucher due to additions of family members other than by birth, adoption, marriage, or court-awarded custody.

Requests based on health-related reasons must be verified by a doctor, medical professional, or social service professional.

CHANGES IN SUBSIDY/VOUCHER SIZE

Changes for Applicants

The subsidy/voucher size is determined prior to the briefing by comparing the family composition to the HACM subsidy standards. If an applicant requires a change in the subsidy/voucher size,

Changes for Participants

The members of the family residing in the unit must have prior approval by the HACM. The family must obtain prior approval of any additional family member before the new member occupies the unit except for additions by birth, adoption, or court-awarded custody, in which case the family must inform the HACM within 10 business days. .

Under-Housed Families (Unit Too Small Size of Family)

If a unit does not meet HQS space standards due to an increase in family size, (unit is too small), the HACM will issue a new voucher. The family and the HACM will try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the HACM will terminate the HAP contract in accordance with its terms.

Over-Housed Families (Unit Too Large Size of Family)

If a participant has a decrease in the family size, the family has the option to be issued a new voucher or remain in the unit they are renting. If the family chooses to remain in the unit, the subsidy standard will be lowered at the next annual re-examination.

If the family chooses to move, the voucher will be issued with the correct subsidy standard. The amount the family pays for rent must be affordable and the tenant portion of rent cannot exceed 40% of their adjusted income at the time of lease-up (24 CFR 982.508). The approved rent will be based on the payment standard for the voucher size the family eligible for, or the actual number of bedrooms in the unit, whichever is less.

C. UNIT SIZE SELECTED [24 CFR 982.402]

The family may lease an otherwise acceptable dwelling unit with fewer bedrooms than the voucher size, provided the dwelling unit meets the applicable Housing Quality Standards space requirements.

The family may lease an otherwise acceptable dwelling unit with more bedrooms than the family voucher size, provided it meets the initial affordability test, where the family does not pay more than 40% of their income towards rent and utilities

HQS GUIDELINES FOR UNIT SIZE SELECTED

The standards allow two persons per living/sleeping room and permit maximum occupancy levels (assuming a living room is used as a living/sleeping area) as shown in the table below. The levels may be exceeded if a room in addition to bedrooms and living room is used for sleeping.

HQS Guidelines for Unit Size Selection	
Unit Bedroom Size	Maximum # in Household
0	2
1	4
2	6
3	8
4	10
5	12
6	14

Chapter 6

FACTORS RELATED TO TOTAL TENANT PAYMENT DETERMINATION

[24 CFR Part 5, Subparts E and F; 982.153, 982.317, 982.551]

INTRODUCTION

The HACM will use the methods as set forth in this Administrative Plan to verify and determine that family income at admission and reexamination is correct. The accurate calculation of Annual Income and Adjusted Income will ensure that families are not paying more or less money for rent than their obligation under the Regulations

This Chapter defines the allowable expenses and deductions to be subtracted from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subparts E and F, and further instructions set forth in HUD Notices and Memoranda. The formula for the calculation of TTP is specific and not subject to interpretation. The HACM's policies in this Chapter address those areas which allow the HACM discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

A. INCOME AND ALLOWANCES [24 CFR 5.609]

Income: Includes all monetary amounts, which are received on behalf of the family. For purposes of calculating the Total Tenant Payment HUD defines what is to be calculated and what is to be excluded in the federal regulations. In accordance with this definition, all income, which is not specifically excluded in the regulations, is counted.

*Note: "Payee Income" received through the Social Security Administration by Head or Spouse for persons that do not reside in the subsidized household **will not** be included in the total family income. According to the Social Security Administration regulations, a Representative Payee is "authorized and directed to apply benefits certified on behalf of a beneficiary only for the use and benefit of the beneficiary."*

Annual Income is defined as the gross amount of income anticipated to be received by the family during the 12 months after certification or recertification. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income, which has been excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits.

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 sections. "Excludable Income" and "Federally mandated Income Exclusions" located later in 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.

Annual income includes, but is not limited to:

- (1) the full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service Regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only described in the paragraph above, authorized in paragraph (b)(2) of this section. Any withdrawal of cash or asset 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 actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD;
- (4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except lump-sum payments caused by delays in processing periodic payments for Social Security or SSI are not included as income);
- (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay;
- (6) Welfare assistance payments. (i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program

are included in annual income only to the extent such payments: (A) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and (B) are not otherwise excluded.

- (7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling;
- (8) All regular pay, special pay and allowances of a member of the Armed Forces (except special pay to a family member serving in the Armed Forces who is exposed to hostile fire).
- (9) 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 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 for a person over the age of 23 with dependent children.

Adjusted Income is defined as the Annual income minus any HUD allowable expenses and deductions.

- HUD has five allowable deductions from Annual Income:
1. Dependent Allowance: \$480 each for family members (other than the head or spouse) who are minors, and for family members who are 18 and older who are full-time students or who are disabled.
 2. Elderly/Disabled Allowance: \$400 per family for families whose head or spouse is 62 or over or disabled.
 3. Allowable Medical Expenses: Deducted for all family members of an eligible elderly/disabled family.
 4. Child Care Expenses: Deducted for the care of children under 13 when child care is necessary to allow an **adult** member to work, attend school, or actively seek employment.
 5. Allowable Disability Assistance Expenses: Deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an **adult** family member to work.

Excludable Income:

The following kinds of income are excluded:

- Any subsidy received for transitional prescription drug assistance and any discounts negotiated in connection with the Medicare prescription drug discount card
- Income from employment of children under the age of 18
- Payments received for foster children under the age of 18
- Payments received for foster children or foster adults including SSI/SSA
- Lump sum additions to the family assets (counted as assets)
- Medical reimbursements
- Income of live-in aide
- Full amount of student financial assistance (tuition and expenses related to attending an institution of higher education)*
- Special armed forces pay
- Resident service stipends
- Sporadic income
- Holocaust reparation payments
- Earning for full-time students in excess of \$480 for each student 18 years or older (excluding spouse)

* Except for a person over the age of 23 with dependent children.

B. DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS FOR PERSONS WITH DISABILITIES [24 CFR 5.617; 982.201(b)(3)]

A disabled family qualified for the earned income disregard (EID) is a disabled family that is receiving tenant-based rental assistance under the Housing Choice Voucher Program; and

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 (TANF). 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.

The HUD definition of "previously unemployed" includes a person with disabilities who has earned in the previous 12 months no more than the equivalent earnings for working 10 hours per week for 50 weeks at the minimum wage. Minimum wage is the prevailing minimum wage in the State or locality.

The HUD definition of economic self-sufficiency program is: any program designed to encourage, assist, train or facilitate economic independence of assisted families or to provide work for such families. Such programs may 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 substance abuse or mental health treatment.)

Amounts to be excluded are any earned income increases of a family member who is a person with disabilities during participation in an economic self-sufficiency or job training program and not increases that occur after participation, unless the training provides assistance, training or mentoring after employment.

The amount of TANF received in the six-month period includes monthly income and such benefits and services as one-time payments, wage subsidies and transportation assistance.

The amount that is subject to the disallowance is the amount of incremental increase in income of a family member who is a person with disabilities. The incremental increase in income is calculated by comparing the amount of the disabled family member's income before the beginning of qualifying employment or increase in earned income to the amount of such income after the beginning of employment or increase in earned income.

Once a family member is determined to be eligible for the EID, the 24-calendar month period starts;

If the family member discontinues the employment that initially qualified the family for the EID, the 24-calendar month period continues;

During the 24-calendar month period, EID benefits are recalculated based on changes to family member income and employment;

During the first 12-calendar month period, HACM will exclude all increased income resulting from the qualifying employment of the family member. After the first 12-calendar month period, HACM will exclude from annual income of the family at least 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 member's baseline income);

The EID benefit is limited to a lifetime 24-month period for the qualifying family member;

At the end of the 24 months, the EID ends regardless of how many months were "used".

Applicability to Child Care and Disability Assistance Expense Deductions

The amount deducted for child care and disability assistance expenses necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, for disabled families entitled to the earned income disallowance, the amounts of the full and phase-in exclusions from income shall not be used in determining the cap for child care and disability assistance expense deductions.

Tracking the Earned Income Exclusion

The earned income exclusion will be reported on the HUD 50058 form. Documentation will be included in the family's file to show the reason for the reduced increase in rent.

Such documentation will include:

Date the increase in earned income was reported by the family

Name of the family member whose earned income increased

Reason (new employment, participation in job training program, within 6 months after receiving TANF) for the increase in earned income

Amount of the increase in earned income (amount to be excluded)

Date the increase in income is first excluded from annual income

Date(s) earned income ended and resumed during the first 12-calendar month period of exclusion (if any)

Date the second 12-calendar month period began (phase-in)

Ending date of the maximum 24-month (two-year) disallowance period

The HACM will maintain a tracking system to ensure correct application of the earned income disallowance.

C. MINIMUM RENT [24 CFR 5.616]

"Minimum rent" is \$50. Minimum rent refers to the Total Tenant Payment and includes the combined amount a family pays towards rent and/or utilities when it is applied.

Hardship Requests for an Exception to Minimum Rent

The HACM recognizes that in some circumstances even the minimum rent may create a financial hardship for families. The HACM will review all relevant circumstances brought to the HACM's attention regarding financial hardship as it applies to the minimum rent. The following section states the HACM's procedures and policies in regard to minimum rent financial hardship as set forth by the Quality Housing and Work Responsibility Act of 1998. HUD has defined circumstances under which a hardship could be claimed. [24 CFR 5.630]

Criteria for Hardship Exception

In order for a family to qualify for a hardship exception, the family's circumstances must fall under one of the following HUD hardship criteria:

The family has lost eligibility or is awaiting an eligibility determination for Federal, State, or local assistance, including a family with a member who is a noncitizen lawfully admitted permanent residence under the Immigration and Nationality Act, and who would be entitled to public benefits but for Title IV of the Personal Responsibility Act and Work Opportunity Act of 1996.

The family would be evicted as a result of an imposition of the minimum rent requirement.

The income of the family has decreased because of changed circumstances, including:

- Loss of employment
- Death in the Family
- Other circumstances as determined by the HACM or HUD

HACM Notification to Families of Right to Hardship Exception

When families question their rent under the minimum rent, the HACM will advise the family of their right to request a minimum rent hardship exception. "Subject" to minimum rent" means the minimum rent was the greatest figure in the calculation of the greatest of 30% of monthly adjusted income, 10% of monthly income, minimum rent or welfare rent.

The HACM will also advise the family that hardship exception determinations are subject to HACM's review and hearing procedures.

The HACM will review all family requests for exception from the minimum rent due to financial hardships.

All requests for minimum rent hardship exceptions are required to be in writing.

The HACM will request documentation as proof of financial hardship; the HACM will use its standard verification procedures to verify circumstances, which have resulted in financial hardship.

Suspension of Minimum Rent

The HACM will grant the minimum rent exception to all families who request it, effective the first of the following month.

The minimum rent will be suspended until the HACM determines whether the hardship is:

- Covered by statute
- Temporary or long term

"Suspension" means that the HACM must not use the minimum rent calculation until the HACM has made the decision.

During the minimum rent suspension period, the family will not be required to pay a minimum rent and the housing assistance payment will be increased accordingly.

If the HACM determines that the minimum rent is not covered by statute, the HACM will impose a minimum rent including payment for minimum rent from the time of suspension.

Temporary Hardship

If the HACM determines that the hardship is temporary, a minimum rent will not be imposed for a period of up to 90 days from the date of the family's request. At the end of the temporary suspension period, a minimum rent will be imposed retroactively to the time of the suspension.

The HACM will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period.

Long-Term Duration Hardships [24 CFR 5.616(c)(3)]

If the HACM determines that there is a qualifying long-term financial hardship, the HACM must exempt the family from the minimum rent requirements for as long as the hardship continues. The exemption from minimum rent shall apply from the first day of the month following the family's request for exemption.

Retroactive Determination

The HACM will reimburse the family for any minimum rent charges which took effect after October 21, 1998, that qualified for one of the mandatory exceptions.

If the family is owed a retroactive payment, the HACM will provide reimbursement in the form of a cash refund to the family.

The HACM's definition of a cash refund is a check made out to the family.

D. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT

[24 CFR 982.54(d)(10), 982.317, 982.551]

The HACM must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, the HACM must count the income of the spouse or the head of the household if that person is temporarily absent. A temporarily absent member of the family will be shown as a member of the family on the lease.

Temporarily absent is defined as a member of the family who is away from the home due to, including but not limited to: military duty, for schooling, for a job – such as a spouse, who would normally live in the unit.

Temporarily absent is defined as away from the unit for more than 90 days.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. The HACM will evaluate absences from the unit using this policy.

Absence of Any Member

Any member of the household will be considered permanently absent if s/he is away from the unit for 60 consecutive days except as otherwise provided in this Chapter. Members of the family who are in the military, members who are away from school, and

members who are away from home due to a job are excluded as a permanently absent member, and considered a temporarily absent member, except for full time students. (See full time student below)

Absence due to Medical Reasons

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the HACM will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member will be considered permanently absent. If the verification indicates that the family member will return in less than 90 consecutive days, the family member will not be considered permanently absent.

If the person who is determined to be permanently absent is the sole member of the household, assistance will be terminated in accordance with the HACM's "Absence of Entire Family" policy.

Absence Due to Full-time Student Status

Full time students who attend school away from the home will be treated in the following manner:

A full time student (other than head of household or spouse) who attends school away from home but lives with the family during school recesses may, at the family's choice, be considered either temporarily or permanently absent. If the family decides that the member is permanently absent, income of that member will not be included in total household income, the member will not be included on the lease, and the member will not be included for determination of Voucher size.

Absence due to Incarceration

If the sole member is incarcerated for more than 60 consecutive days, s/he will be considered permanently absent. Any member of the household, other than the sole member, will be considered permanently absent if s/he is incarcerated for 60 consecutive days.

The HACM will determine the reason for incarceration for consideration of taking action as appropriate.

Absence of Children due to Placement in Foster Care

If the family includes a child or children temporarily absent from the home due to placement in foster care, the HACM will determine from the appropriate agency when the child/children will be returned to the home.

If the time period is to be greater than 6 months from the date of removal of the child/ren, the Voucher size will be reduced at the anniversary date or at time of the family moving, whichever comes first.

Absence of Entire Family

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, the HACM will terminate assistance in accordance with appropriate termination procedures contained in this Plan.

“Family Absence” means that no family member is residing in the unit.

Families are required both to notify the HACM before they move out of a unit and to give the HACM information about any family absence from the unit.

Families must notify the HACM if they are going to be absent from the unit for more than 14 consecutive days.

If the entire family is absent from the assisted unit for more than 60 consecutive days, the unit will be considered to be vacated and the assistance will be terminated.

If it is determined that the family is absent from the unit, the HACM will not continue assistance payments.

In order to determine if the family is absent from the unit, the HACM may:

- Write letters to the family at the unit
- Telephone the family at the unit
- Interview neighbors
- Verify if utilities are in service
- Check with the post office
- Notice from owner of unit

A person with a disability may request an extension of time as an accommodation, provided that the extension does not go beyond 180 consecutive calendar days.

If the absence which resulted in termination of assistance was due to a person's disability, and the HACM can verify that the person was unable to notify the HACM in accordance with the family's responsibilities, and if funding is available, the HACM may reinstate the family as an accommodation if requested by the family, as long as the period was within 180 days.

Caretaker for Children:

If neither parent remains in the household nor the appropriate agency has determined that another adult is to be brought into the assisted unit to care for the children for an indefinite period, the HACM will treat that adult as a visitor for the first 60 days.

If by the end of that period, court-ordered custody or legal guardianship has been ordered to the caretaker, the Voucher will be transferred to the caretaker.

If custody or legal guardianship has not been ordered by the court, but the action is in process, the HACM will secure verification from social services staff or the attorney as to the status.

If custody is ordered for a limited time in excess of stated period, the transfer of the voucher is for a limited time. The HACM will use discretion as deemed appropriate in determining any further assignation of the Voucher on behalf of the children.

The caretaker will be allowed to remain in the unit, as a visitor, until a determination of custody is made.

The HACM will transfer the voucher to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than 60 days/months and it is reasonable to expect that custody will be granted.

When the HACM approves a person to reside in the unit as caretaker for the child/ren, the income should be counted pending a final disposition. The HACM will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts him/her from the home for more than 2 months, the person will be considered permanently absent.

The family will be required to notify the HACM in writing within ten (10) business days when an adult family member moves out, or abandons the unit.

Minor coming into home:

If a participant on the program wants to allow a minor in the household who is not a child of any of the family members, the participant must provide all required papers for addition of a family member AND must get prior approval if there is not any court order regarding custody of child. The following must be acquired by the family to permanently add minor to family composition:

- Legal custody papers – court order as indicated in the above paragraphs under Caretaker. (Notarized statement not acceptable)
60 days to provide paperwork for court ordered custody or legal guardianship.

If custody or legal guardianship has not been ordered by the court, but the action is in process, the HACM will secure verification from social services staff or the attorney as to the status.

- Written approval from the owner of the unit

During this time period, the minor child can be residing in unit if prior approval received from owner.

FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

Family Breakup (24CFR 982.315)

Except under the following conditions, the HACM 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, the HACM must ensure that the victim retains assistance.
- If a court determines the disposition of property between the members of an assisted family members continue to receive assistance.

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

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

In the absence of a judicial decision or an agreement among the original family members, the HACM will determine which family will retain their placement on the waiting list or continue to receive assistance. In making its determination, the HACM 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, sexual assault, 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; (5) the recommendations of social service professionals; and (6) given to the adult member who initially applied, if another adult member was added at a later time.

Note: If an adult member requests residual rights to the Voucher (head of household requests that other adult member receive the Voucher), the adult member who wishes to receive the Voucher, must have been an approved member of the household by the HACM for at least 6 months.

The HACM shall require verification of the above circumstances. If either or both of the families do not provide the documentation requested by the HACM, termination of the Voucher for failure to supply requested verifications will occur.

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-D, for the policy on “Caretaker for a Children.”

A reduction in family size may require a reduction in the voucher family unit size.

Live In Aides

A Live in Aide will not be approved to reside in the unit if the HUD definition of a live in aide is not met. Also, the HACM will also not approve the addition of the live in aide in the unit in any of the following cases:

1. The live in aide has been on a federal housing program and evicted from public housing or terminated from Housing Choice Voucher due to program violation.
2. The live in aide owes any amounts of money to any federal housing program.
3. The live in aide has drug related criminal activity or violent criminal activity as pertains to this administrative plan, or HUD regulations.
4. The live in aide has employment outside of the home.
5. Another person is residing in the unit who is capable of providing the care for participant.
6. Participant requiring live in aide must supply the HACM with verification from a reliable, knowledgeable professional, such as a medical doctor, social worker or caseworker. The verification must demonstrate that a live-in aide is necessary and the family would not be equally well served by a home health care service or a care provider who does not live in the unit. This verification will be required to be given to the HACM not only at the initial time the live-in aide begins to reside in the subsidized unit but at every annual re-certification thereafter.
7. No other additional family members of live in care attendant may reside in unit with participant.

In instances where the family receives payments from Human Services through the In Home Supportive Services (IHSS) program, the live-in aide reported to the HACM must be the same person on record with IHSS.

The HACM may deem it necessary to re-verify the necessity of a live-in aide at any time.

The live-in aide's qualification for housing occupancy terminates when the individual needing the supportive services leaves the unit or fails to qualify for continued occupancy, or when the need for live-in aide assistance ceases. The live-in aide does not qualify for continued occupancy as a remaining member of the tenant family, even if they are related by blood, marriage or operation of law.

Visitors

Visitors are not members of the family. If the person is a visitor and does not intend to become a "permanent" member of the family, the HACM does not have to consider this a change in family composition.

Any adult not included on the HUD 50058 who has been in the unit more than fourteen (14) consecutive days (construed as overnight stays), or a total of 30 days in a 12 month period, will be considered to be living in the unit as an unauthorized household member.

Statements from neighbors and/or the landlord, as well as all other evidence presented, will be considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose shall be construed as permanent residence and/or primary residence.

Primary residence, as defined in legal opinion dated 9/11/90, and stated in the glossary terms, will be in effect for this HACM.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual will be considered an unauthorized member of the family and the HACM will terminate assistance since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are not considered members of the household may visit for up to 120 calendar days per year without being considered a member of the household.

Joint Custody of Children:

If children are a part of an assisted household pursuant to a court order joint custody agreement, a document from the court indicating the nature of the custody should be submitted.

Children who are subject to a joint custody agreement but live in the unit at least 50% of the time will be considered members of the household. If both families are on the program or the waiting list, the child may be claimed by only one parent. The parents will be encouraged to make a decision as to which parent claims the child as a family member. (This does not pertain to the Family Unification Program in which families are reunited and may not have 50% custody of children but need a unit in order for the courts to allow family to have custody of children for certain period of time)

If there is no agreement by both parties, "50 percent of the time" is defined as 182 days of the year, (which do not have to run consecutively).

In some instances both parents will have joint custody of a child, and the child will reside with one parent more than 51 percent of the time, but the other parent will receive the TANF benefits. In these cases the HACM will do an investigation with the welfare department and will make a determination based on that investigation.

Other factors that the HACM will consider to determine subsidy standard and/or deductions are:

- Which family takes child as dependent on most recent Federal Income Tax Return.
- School records showing address of child.
- Who pays for the primary medical care of child.
- Any other court documents pertaining to custody or details of support for the child.

Reporting Additions to Owner and HACM

Reporting changes in household composition to the HACM is both a HUD and a HACM requirement.

The family obligations require the family to request HACM approval to add any other family member as an occupant of the unit and to inform the HACM of the birth, adoption or court-ordered custody of a child. The family must request prior approval from the HACM to add additional family members to the household by completing a change packet at the receptionist desk. This includes a request for a live in aide. If any new family member is added, the income of the additional member will be included in the family income as applicable under HUD regulations.

If the family does not obtain prior approval from the HACM, any person the family has permitted to move in will be considered an unauthorized household member, except a visitor.

In the event that a visitor continues to reside in the unit after the maximum allowable time, the visitor will be considered an unauthorized household member, and the HACM may take action to terminate the participant from the program.

Families are required to report any additions to the household, due to birth, adoption or court-ordered custody of a child, in writing to the HACM within 10 business days of the change.

In addition, the HACM will require the family to obtain prior written approval from the owner when there are additions to the family composition, unless the addition is due to birth, adoption or court-ordered custody.

An interim reexamination will always be conducted for any additions or deletions of family members, time permitting. Priority of interims for family compositions will be those changes of family composition which will result in a reduction of tenant's share of rent. Any other changes that occur that result in the same rent or increase of tenant's share of rent will be processed as time permits.

Reporting Absences to the HACM

Reporting changes in household composition is both a HUD and a HACM requirement.

If a family member leaves the household, the family must report this change to the HACM, in writing, within ten (10) business days of the change. This includes a live in aide.

The HACM will conduct an interim evaluation for changes which affect the TTP in accordance with the interim policy, or require the family to move in instances of a smaller unit needed under the certificate program.

E. AVERAGING INCOME

When Annual Income cannot be anticipated for a full twelve months, the HACM may:

1. Average known sources of income that vary to compute an annual income, or
2. Annualize current income and conduct an interim reexamination if income changes.

If there are bonuses or overtime which the employer cannot anticipate for the next twelve months, bonuses and overtime received the previous year will be used.

Income from the previous year may be analyzed to determine the amount to anticipate when third-party or check-stub verification is not available.

If by averaging, an estimate can be made for those families whose income fluctuates from month to month; this estimate will be used so that the housing payment will not change from month to month.

The method used depends on the regularity, source and type of income.

F. MINIMUM INCOME

There is no minimum income requirement. However, families who have a monthly income of \$300 or less, are required to complete a Monthly Living Expenses Worksheet, Personal Declaration Form, Earned Income Statement and any other verification that may be required by the HACM every sixty (60) days. The forms Family Obligations, Denial of

Assistance, and the Applicant/Tenant Certification need to be completed only once during this time period, but can be completed more if the eligibility specialist deems it necessary.

G. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME

[24 CFR 982.54(d)(10)]

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the HACM will calculate the Total Tenant Payment by:

- Excluding the income of the person permanently confined to the nursing home and give the family no deductions for medical expenses of the confined family member; except,
- If the income of the confined family member goes directly to family member, then the income and deductions will be INCLUDED.

H. REGULAR CONTRIBUTIONS AND GIFTS [24 CFR 5.609]

Regular contributions and gifts received from persons outside the household are counted as income for calculation of the Total Tenant Payment.

Any contribution or gift received every three months or more frequently will be considered a "regular" contribution or gift. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. (See Chapter 7, "Verification Procedures," for further definition.)

If the family's expenses exceed its known income, the HACM will question the family about contributions and gifts.

I. ALIMONY AND CHILD SUPPORT [24 CFR 5.609]

Regular alimony and child support payments are counted as income for calculation of Total Tenant Payment.

If the amount of child support or alimony received is less than the amount awarded by the court, the HACM must use the amount ordered by the court unless the family can verify that they are not receiving the full amount.

The HACM will accept as verification that the family is receiving an amount less than the award if:

The HACM receives verification from the agency responsible for enforcement or collection.

It is the family's responsibility to supply a certified copy of the divorce/dissolution decree.

J. LUMP-SUM RECEIPTS [24 CFR 5.609]

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, are not included in income but may be included in assets.

Lump-sum payments caused by delays in processing periodic payments (unemployment or welfare assistance) are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining will be considered an asset. Deferred periodic payments which have accumulated due to a dispute will be treated the same as periodic payments which are deferred due to delays in processing.

In order to determine amount of retroactive tenant rent that the family owes as a result of the lump sum receipt:

The HACM uses a calculation method which calculates retroactively or prospectively depending on the circumstances.

Prospective Calculation Methodology

If the payment is reported on a timely basis, the calculation will be done prospectively and will result in an interim adjustment calculated as follows:

1. The entire lump-sum payment will be added to the annual income at the time of the interim.
2. The HACM will determine the percent of the year remaining until the next annual recertification as of the date of the interim (three months would be 25% of the year).
3. At the next annual recertification, the HACM will apply the percentage balance (75% in this example) to the lump sum and add it to the rest of the annual income.
4. The lump sum will be added in the same way for any interims which occur prior to the next annual recertification.

If amortizing the payment over one year will cause the family to pay the entire total contract rent as tenant rent, the HACM and family may enter into a Repayment Agreement, with the approval of the Housing Choice Voucher Director, for a partial of the lump sum receipt, not to exceed 50% of the total amount.

Retroactive Calculation Methodology

1. The HACM will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer.
2. The HACM will determine the amount of income for each certification period, including the lump sum, and recalculate the tenant rent for each certification period to determine the amount due the HACM.

At the HACM's option, the HACM may enter into a Repayment Agreement with the family. Otherwise, the family will need to pay the full amount due the HACM. The amount owed by the family is a collectible debt even if the family becomes unassisted.

Attorney Fees

The family's attorney fees may be deducted from lump-sum payments when computing annual income if the attorney's efforts have recovered a lump-sum compensation, and the recovery paid to the family does not include an additional amount in full satisfaction of the attorney fees.

K. CONTRIBUTIONS TO RETIREMENT FUNDS – ASSETS [24 CFR 5.603(d)]

Contributions to company retirement/pension funds are handled as follows:

1. While an individual is employed, count as assets only amounts the family can withdraw without retiring or terminating employment.
2. After retirement or termination of employment, count any amount the employee elects to receive as a lump sum.

L. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE [24 CFR 5.603(d)(3)]

The HACM must count assets disposed of for less than fair market value during the two years preceding certification or reexamination. The HACM will count the difference between the market value and the actual payment received in calculating total assets.

Assets disposed of as a result of foreclosure or bankruptcy, are not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or separation are not considered as assets disposed of for less than fair market value.

The HACM's minimum threshold for counting assets disposed of for less than Fair Market value is \$1,000. If the total value of assets disposed of within a one-year period is less than \$1,000, they will not be considered an asset.

Checking & Savings Accounts:

If the total of both checking and savings account balances of a family are less than \$1,000, then the HACM will not verify the assets or count the income from such assets.

Where the family has net family assets in excess of \$5,000, HACM must obtain supporting documentation (e.g. bank statements) from the family to confirm the assets.

M. CHILD CARE EXPENSES [24 CFR 5.603]

Childcare expenses for children under 13 may be deducted from annual income 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.

In the case of a child attending private school, only after-hours care can be counted as childcare expenses.

Childcare expenses cannot be allowed as a deduction if there is an adult household member capable of caring for the child who can provide the childcare. Examples of those adult members who would be considered unable to care for the child include:

- The abuser in a documented child abuse situation, or
- A person with disabilities or older person unable to take care of a small child, as verified by a reliable knowledgeable source.

Allowability of deductions for childcare expenses is based on the following guidelines:

Child care to work: The maximum child care expense allowed cannot exceed the amount earned by the person enabled to work, which is included in the family's annual income. The "person enabled to work" will be the adult member of the household who earns the least amount of income from working.

Child care for school: The number of hours claimed for child care may not exceed the number of hours the family member is attending school, including reasonable travel time to and from school.

N. MEDICAL EXPENSES [24 CFR 5.609(a)(2), 5.603]

Medicare Prescription Drug Benefits

The HACM must treat any Medicare prescription drug discount cards and transitional assistance received by a family as a standard medical deduction so that the family continues to receive a deduction for the full cost of its prescription drugs.

- This means that neither the drug discount nor the transitional assistance should be considered in reimbursement for the purpose of calculating the family's medical expense deduction.
- This also means that the HACM must verify the FULL cost of the family's prescription drugs, not the out-of-pocket cost to the family.

This includes bills credited to credit cards. Deductions will not be given, except for the monthly minimum amount the credit card company demands monthly. Deductions will not be given for medical expenses credited to some other person's credit card, such as parents of disabled person.

Medical deductions will not be given for the buying or repair or upkeep of a car, even if car is equipped for the disabled.

Medical insurance, however, is considered an anticipated medical deduction.

Nonprescription medicines must be doctor-recommended in order to be considered a medical expense, and family must furnish legible receipts.

Acupuncture, Acupressure, herbal medicines and chiropractic services will be considered allowable medical expenses.

The HACM will require a family to obtain verification on a "service" animal that:
The animal is a certified service dog.

In addition, the HACM will require the family to obtain a doctor's verification that the family needs the animal to cope with a disability.

Medical expenses that may be allowed for a service animal include:

- food
- medical expenses, including well-care for the animal
- additional training expenses, only if it mandated by the organization where the service animal originated. Verification will be required.
- Reasonable mileage costs to obtain medical services

Medical expenses will not be given for a service animal for the following:

- Toys
- Kennel fees, unless due to hospitalization of the animal
- Expenses relating to taking animal to dog show, including fee for dog shows, mileage, kennel fees or any supplies for the service animal
- Any magazines or publications of whatever source
- Special diet food, unless with a veterinarian's written verification of the need

Under no circumstances will medical expenses be allowed for a service animal without verification of amount spent, which includes an original receipt showing address, phone number, and name of seller. In addition, credit card bills cannot be submitted in lieu of original receipts. Vague verifications, such as receipts showing "dog supplies", will not be acceptable. The receipt must reflect clearly what each item is.

When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, IRS Publication 502 will be used as a guide, including the cost of mileage which will be allowed.

O. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.520]

Applicability

Proration of assistance must be offered to any "mixed" applicant or participant family. A "mixed" family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible members.

"Mixed" families that were participants on June 19, 1995, and that do not qualify for continued assistance must be offered prorated assistance. (See Chapter 12, "Recertifications.") Effective November 29, 1996, Continued Assistance Families who are mixed families will now be pro-rated according to HACM's interim policy. (24CFR Part 5 Interim Rule/Revised Restrictions on Assistance to Noncitizens dated November 29, 1996) Applicant mixed families are entitled to prorated assistance. Families that become mixed after June 19, 1995, by addition of an ineligible member are entitled to prorated assistance.

Prorated Assistance Calculation

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible and multiplying by the percent of the family members who actually are eligible. Total Tenant Payment is the gross rent minus the prorated assistance.

P. REDUCTION IN BENEFITS DUE TO OVERPAYMENTS

If the family's benefits of Social Security or SSI are reduced, the HACM will use the net amount of the benefit plus the cost of Medicare insurance. (Medicare insurance is given as a medical expense)

If the family's TANF benefits are reduced *through no fault of the family*, the HACM will use the net amount, whether the family is coming onto the Housing Choice Voucher Program or already a participant.

The HACM will use the gross amount of General Assistance, for which the family is eligible, even if the benefit is reduced due to a Housing Choice Voucher decrease of tenant rent.

Q. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS

The HACM will not reduce the rental contribution for families whose welfare assistance is reduced specifically because of:

- Fraud by a family member in connection with the welfare program; or failure to Participate in an economic self-sufficiency program; or noncompliance with a work activities requirement

However, the HACM will reduce the rental contribution if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits; or
- A situation where a family member has not complied with other welfare agency requirements; or
- A situation where a family member has complied with welfare agency economic self-sufficiency or work activities requirements but cannot or has not obtained employment, such as the family member has complied with welfare program requirements, but the durational time limit, such as a cap on the length of time a family can receive benefits, causes the family to lose their welfare benefits.

Imputed welfare income is the amount of annual income not actually received by a family as result of a specified welfare benefit reduction that is included in the family's income for rental contribution.

Imputed welfare income is not included in annual income if the family was not an assisted resident at the time of sanction.

The amount of imputed welfare income is offset by the amount of additional income a family receives that begins after the sanction was imposed.

When additional income is at least equal to the imputed welfare income, the imputed welfare income is reduced to zero.

Verification Before Denying a Request to Reduce Rent

The HACM will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance with economic self-sufficiency or work activities requirements *before* denying the family's request for rent reduction.

The welfare agency, at the request of the HACM, will inform the HACM of:

- Amount and term of specified welfare benefit reduction for the family;
- Reason for the reduction; and
- Subsequent changes in term or amount of reduction.

Cooperation Agreements

The HACM has a written cooperation agreement in place with the local welfare agency which assists the HACM in obtaining the necessary information regarding welfare sanctions.

R. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS
[24 CFR 982.153, 982.517]

The HACM will maintain an up-to-date utility allowance schedule.

The Utility Allowance is intended to help defray the cost of utilities not included in the rent and is subtracted from Total Tenant Payment to establish the family's rent to the landlord. The allowances are based on actual rates and average consumption studies, not on a family's actual consumption. The HACM will review the Utility Allowance Schedule on an annual basis and revise it if needed.

As per the FY 2014 Consolidated Appropriations Act, the utility allowance will be based on the lower of the actual unit size or the voucher bedroom size.

A family with a 2-bedroom voucher that chooses to lease a 3-bedroom unit will now have the 2-bedroom utility allowance applied. The HACM must make an exception if necessary as a reasonable accommodation for a family that includes a person with disabilities.

The new rule on utility allowances is to be applied for all new admissions. For current, program participants, the new rule must be applied at the family's next annual reexamination.

An allowance for tenant-paid air conditioning will be provided in the utility allowance for the Merced County jurisdiction.

The HACM will review the utility allowance schedule annually. If the review finds a utility rate has changed by 10 percent or more since the last revision of the utility allowance schedule, the schedule will be revised to reflect the new rate. Revised utility allowances will be applied in a participant family's rent calculation at their next reexamination.

Where families provide their own range and refrigerator, the HACM will establish an allowance adequate for the family to purchase or rent a range or refrigerator, even if the family already owns either appliance. Allowances for ranges and refrigerators will be based on the lesser of the cost of leasing or purchasing the appropriate appliance over a 12 month period.

Where the calculation on the HUD 50058 results in a utility reimbursement payment due the family [24 CFR 982.514(b)], the HACM will provide a utility reimbursement payment for the family each month. The check will be made out directly to the client.

Chapter 7

VERIFICATION PROCEDURES

[24 CFR Part 5, Subparts B, D, E and F; 24 CFR 982.158; 24 CFR 5.617]

INTRODUCTION

HUD regulations require that the factors of eligibility and Total Tenant Payment be verified by the HACM. HACM staff will be trained to explain to applicants/participants the verification procedures including the types of information that will be verified and the methods used.

Applicants and program participants must provide true and complete information to the HACM whenever information is requested. The HACM's verification requirements are designed to maintain program integrity. This Chapter explains the HACM's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and changes in family composition. The HACM will obtain proper authorization from the family before requesting information from independent sources.

HACM Staff will verify applicant and participant information using the six levels of verification including: Upfront (UIV) Verification/Enterprise Income Verification (EIV) HUD System; UIV (non HUD System); Tenant provided third-party documents; third-party written; third-party oral; and, as a final resort, tenant self-declaration/certification.

HACM reserves the right to use other reasonable methods of verification in addition to those methods set forth in this chapter. HACM reserves the right to determine whether or not certain verification submitted is sufficient and whether further verification will be required.

A. METHODS OF VERIFICATION AND TIME ALLOWED [24 CFR 982.516]

The HACM will verify information through the six methods of verification acceptable to HUD in the following order:

1. UIV/EIV HUD System
2. UIV (non-HUD System)
3. Tenant provided third-party documents
4. Third-party written
5. Third-party oral
6. Tenant self-declaration/certification

The HACM will allow 5 business days to obtain other types of verifications before going to the next method and 10 business days for return of third-party verifications. The

HACM will document the file as to why UIV/EIV and/or Tenant provided third party documents were not used.

All participant-provided documents must be dated within 60 calendar days of the date they are provided to the HACM.

For applicants, verifications may not be more than 60 days old at the time of Voucher issuance. Third-party verifications must be no more that 120 days at time of processing.

The HACM will ensure that there is a valid HUD Form 9886 for each household member who are 18 years of age or older in the applicant/participants file. The household will also sign authorizations for each of the information sources to release specified information.

Note: In determining annual income, the HACM will use actual past income received within the last 12 months.

HACM will use the most recent 12 months of income information available in EIV to use actual past income. Because this EIV report will give actual earnings data verified by a third-party, the program participant is no longer required to provide third-party documentation (e.g. pay stubs, payroll summary report, unemployment benefit notice).

HACM will continue to verify income from sources not available in EIV and will use the same time period for both wage and non-wage income.

(As per HUD PIH Notice 2013-03)

Upfront Verification (UIV)/Enterprise Income Verification (EIV)

Up-Front income verification (UIV/EIV) refers to the HACM'S use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. Currently, the HACM uses HUD's Enterprise Income Verification (EIV) system. HUD's EIV system contains data showing earned income, unemployment benefits, Social Security and SSI benefits for participant families. HUD requires that the HACM use the EIV system.

The purpose of the EIV/UIV data is to VALIDATE tenant-reported income and supplement tenant-provided documents.

Use of the EIV/UIV system simplifies the verification process because:

- Tenant reports income
- Tenant provides the HACM with current documentation
- The HACM consults the UIV/EIV system and prints income details report
- If additional information is not needed, the HACM uses the current tenant-provided documents to calculate anticipated annual income. (If additional income is needed, the HACM will request written third-party verification).

There may be legitimate differences between the information provided by the family and EIV/UIV generated information. If the family disputes information provided by the UIV/EIV system, the HACM staff will refer to the procedural guidelines on how to resolve this issue. No adverse action can be taken against a family until the HACM has independently verified the UIV/EIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process.

Although UIV/EIV replaces third party verification, third party verification may continue to be used to complement UIV/EIV such as when there is a discrepancy between documents provided by the participant or when the tenant disputes the information received via UIV/EIV matching.

Tenant Provided Documents

In the event that UIV/EIV is unavailable, the HACM will note the file accordingly and utilize documents provided by the family as the primary source if the documents provided are complete and authentic information.

The HACM will accept verifications in the form of computerized printouts by the family from the following:

- * Social Security Administration
- * Veteran's Administration
- * Welfare Assistance
- * Unemployment Compensation Board
- * City or County Courts
- * Banking institutions
- * Medical institutions
- * Educational institutions
- * District Attorney's Office
- * Printed wage stubs
- * Computer print-outs from the employer
- * Signed letters (provided that the information is confirmed by phone or notarized statement)
- * Other documents noted in this Chapter as acceptable verification

Written Third-Party Verification

Third-party verification is used to verify information directly with the source. Third-party written verification forms will be sent and returned via first class mail or by fax machine. The family will be required to sign an authorization for the information source to release the specified information.

Verifications received electronically directly from the source are considered third party written verifications.

Third party verification forms will not be hand carried by the family under any circumstances unless the family returns verification in the form of computerized printouts which clearly indicate the source of the information.

Oral Third-Party Verification

Oral third-party verification will be used when written third-party verification is delayed or not possible. When third-party oral verification is used, staff will be required to complete the HACM-created form designed for this purpose, noting with whom they spoke, the date of the conversation, and the facts provided. When third-party oral verification is provided by telephone the HACM must originate the call.

The HACM **will** accept Faxed documents.

If third-party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, the HACM will where appropriate the rent will be recalculated and a rent change letter will be sent to reflect the corrected tenant portion.

Self-Certification/Self-Declaration

When verification of reported income or expenses cannot be made by third-party verification or review of documents, families will be required to submit a self-certification.

Self-certification means **a statement under penalty of perjury**

B. RELEASE OF INFORMATION [24 CFR 5.230]

All adult family members will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886, Authorization for Release of Information/Privacy Act Notice.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance because it is a family obligation to supply any information requested by the HACM or HUD.

C. COMPUTER MATCHING

The HACM has implemented computer matching through the Human Services Department of Merced County to verify TANF (Temporary Assistance to Needy Families). For each social security number submitted to the Welfare Department the HACM has a corresponding Federal Privacy Act Statement signed by the family member in each family's file. A signed Memorandum of Understanding has been executed between the HACM and the Human Services Department.

Where allowed by HUD and/or other State or local agencies, computer matching will be done.

The HACM will utilize the HUD established computer-based Employment Income Verification (EIV) system for obtaining Social Security benefits, Supplemental Security Income, benefit history and benefit income discrepancy reports from the Social Security Administration, employment and unemployment benefits.

HUD can access income information and compare it to information submitted by PHAs on the 50058 form. HUD can disclose Social Security information to PHAs, but is precluded by law from disclosing Federal tax return data to PHAs. If HUD receives information from Federal tax return data indicating a discrepancy in the income reported by the family, HUD will notify the family of the discrepancy. The family is required to disclose this information to the HACM (24 CFR 5.240). HUD's letter to the family will also notify the family that HUD has notified the HACM in writing that the family has been advised to contact the HACM. HUD will send the HACM a list of families who have received "income discrepancy" letters.

When the HACM receives notification from HUD that a family has been sent an "income discrepancy" letter, the HACM will:

Wait 40 days after the date of notification before contacting tenant.

After 40 days following the date of notification, the HACM will contact the tenant by mail and telephone asking the family to promptly furnish any letter or other notice by HUD concerning the amount or verification of family income.

The HACM will fully document the contact in the tenant's file, including a copy of the letter to the family and written documentation of the phone call.

When the family provides the required information, the HACM will verify the accuracy of the income information received from the family, review the HACM's interim recertification policy, will identify unreported income, will charge retroactive rent as appropriate, and change the amount of rent or terminate assistance, as appropriate based on the information.

If tenant fails to respond to HACM:

The HACM will ask HUD to send a second letter.

After an additional 40 days, the HACM will ask HUD to send a third letter.

After an additional 40 days the HACM will send a letter to the head of household, warning of the consequences if the family fails to contact the HACM within two weeks.

If tenant claims a letter from HUD was not received:

The HACM will ask HUD to send a second letter with a verified address for the tenant.

After 40 days, the HACM will contact the tenant family.

If the tenant family still claims they have not received a letter, the HACM will ask HUD to send a third letter.

After an additional 40 days, the HACM will set up a meeting with the family to complete IRS forms 4506 and 8821.

If the tenant family fails to meet with the HACM or will not sign the IRS forms, the HACM will send a warning letter to the head of household, notifying the family that termination proceedings will begin within one week if the tenant fails to meet with the HACM and/or sign forms.

If tenant does receive a discrepancy letter from HUD:

The HACM will set up a meeting with the family.

If the family fails to attend the meeting, the HACM will reschedule the meeting.

If the family fails to attend the second meeting, the HACM will send a termination warning.

The family must bring the original HUD discrepancy letter to the HACM.

If tenant disagrees with the Federal tax data contained in the HUD discrepancy letter:

The HACM will ask the tenant to provide documented proof that the tax data is incorrect.

If the tenant does not provide documented proof, the HACM will obtain proof to verify the Federal tax data using third party verification.

D. ITEMS TO BE VERIFIED [24 CFR 982.516]

Items to be verified include but are not limited to:

All income not specifically excluded by the regulations.

Zero-income status of household.

Full-time student status including High School students who are 18 or over.

Current assets including assets disposed of for less than fair market value in preceding two years.

Child care expense where it allows an **adult** family member to be employed or to further his/her education.

Total medical expenses of all family members in households whose head or spouse is elderly or disabled.

Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family, which allow an **adult** family member to be employed.

U.S. citizenship/eligible immigrant status.

Social Security Numbers for all family members 6 years of age or older.

Preference status, based upon local preferences

Familial/Marital status when needed for head or spouse definition.

Disability for determination of preferences, allowances or deductions.

Verification of Reduction in Benefits for Noncompliance:

The HACM will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance before denying the family's request for rent reduction.

E. VERIFICATION OF INCOME

Acceptable methods of verification, starting with UIV/EIV/third party written verification, will be used by the HACM whenever obtainable. This applies to income, assets, expenses, and any other factor which HUD requires verification in determining the applicant/participant's eligibility.

Employment Income

HACM will access HUD UIV/EIV systems if available. Otherwise, verification forms requesting the employer to provide the following information will be sent to the employer:

Dates of employment

Amount and frequency of pay (If paid twice a month for example, on the 15th and the 30th, frequency of pay is 24 times per year. If paid every two weeks, frequency of pay is 26 times per year).

Date of the last pay increase

Likelihood of change of employment status and effective date of any known salary increase during the next 12 months

Year-to-date earnings

Estimated income from overtime, tips, bonus pay expected during next 12 months

Acceptable methods of verification include, in this order:

1. UIV/EIV system
2. Documents provided by applicants and program participants:
 - Check stubs or earning statements which indicate the employer's gross pay, frequency of pay or year to date earnings.
 - W-2 forms plus income tax return forms.
3. Employment verification form completed by employer
4. Telephone contact with employer documented on HACM's oral verification form

The HACM may request the family's most recently submitted IRS federal income tax form. Applicants and program participants who do not have a copy of their most recently submitted IRS federal income tax form will be requested to obtain their income tax return directly from IRS. Where doubt regarding income exists, a referral to IRS for confirmation will be made on a case-by-case basis.

Applicants and program participants may be requested to sign an authorization for release of information from the IRS for further verification of income.

Social Security, Supplementary Security Income (SSI)

Acceptable method of verification may include:

1. UIV/EIV computer matching conducted by HUD in Washington, D.C. and the Social Security Administration Office.
2. Benefit verification form completed by the local agency.
3. Most recent award or benefit notification letters
4. Bank statements showing deposit from SSA
5. Copies of SSA checks

Pensions, Disability Income

Acceptable methods of verification may include, in this order:

1. UIV/EIV computer matching
2. Award or benefit notification letters prepared by the providing agency.
3. Computer report electronically obtained or in hard copy, from agency providing the benefits.
4. Benefit verification form completed by agency providing the benefits.

Unemployment Compensation

Acceptable methods of verification may include, in this order:

1. UIV/EIV computer matching or computer matching agreement with a State Wage Information Agency
2. Payment stubs.
3. Computer report electronically obtained or in hard copy, from unemployment office (EDD) stating payment dates and amounts.
4. Verification form completed by the unemployment compensation agency.

Welfare (TANF) Payments or General Assistance

Acceptable methods of verification may include:

1. Use of computer matching when available.
2. Use of Human Services Agency electronic phone verification system
3. Written statement from payment provider indicating the amount of grant/payment, start date of payments.
4. Computer generated Notice of Action or verification of amount of grant/benefits verified electronically through Human Services Agency.

Income of individuals who are enrolled at an institution of higher education and are applying for (or who are participants of the Section 8 assistance program in their individual capacity).

Income must be verified for the student according to all other regular verification requirements stated in this Administrative Plan, with the following exception:

As it relates to the verification of a parent(s) income, the HACM may accept from a parent(s) a declaration and certification of income; which includes a penalty of perjury.

Alimony or Child Support Payments

Acceptable methods of verification may include, in this order:

1. Verification from Human Resources of child support disregard payments or verification from the Merced County Family Support Division.
2. Copy of latest check and/or payment stubs from Court Trustee or Individual providing payment. HACM must record the date, amount, and number of the check.
3. Copy of a separation or settlement agreement or a divorce/dissolution decree stating amount and type of support and payment schedules.
4. Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.
5. A written statement provided by person paying the support indicating all of the above.

Net Income from a Business

In order to verify the net income from a business, the HACM will view IRS and financial documents from prior years and use this information to anticipate the income for the next 12 months.

Acceptable methods of verification may include:

1. IRS Form 1040, including:
 - Schedule C (Small Business)
 - Schedule E (Rental Property Income)
 - Schedule F (Farm Income)

Note: 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 will need to be provided.

2. Audited or unaudited financial statement(s) (profit and loss) of the business.
3. Documents such as manifests, appointment books, cashbooks, bank statements, and receipts will be used as a guide for the prior six months (or lesser period if not in business for six months) to project income for the next

12 months. The family will be advised to maintain these documents in the future if they are not available.

4. Written statement signed by applicant/participant listing amount earned and expenses incurred, along with dates the business was operating.
5. If the family is performing a cash based business and have not been in business long enough to have filed a tax return for the business, they will be required to complete a form detailing information regarding name of customers and amount paid and signature of customer. When the families' self-employment income is a new business, has sporadic income, or is not expected to earn the same amount as reported on the tax return, the HACM may conduct interim reevaluations every 120 days and provide the log information about customers, income and expenses.

Child Care Business

If an applicant/participant is operating a licensed day care business, income will be verified as with any other business.

If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), the HACM will require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose child (children) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, signature of person.

If the family has filed a tax return, a third-party verification will be sent to the parent whose child was cared for

Recurring Gifts

When a family receives a recurring gift, the HACM will verify the income by mailing verification directly to the providing source. As a last resort, the HACM will accept the families self declaration/certification. In both verification requests, the HACM must have the following information:

- The person who provides the gifts
- The value of the gifts
- The regularity (dates) of the gifts
- The purpose of the gifts

Zero Income Status

The HACM will employ the use of the UIV/EIV process (e.g., TANF, EDD work history) and other written third-party verification when the family claims to have no other income. The HACM may request information from IRS.

The HACM may check records of other departments in the jurisdiction (such as government utilities) that have information about income sources of customers.

Families with zero income will be required to report to the HACM the first of each month by completing a Monthly Expense Form.

The HACM may run a credit report if information is received that indicates the family has an unreported income source.

Full-Time Student Status

Only the first \$480 of the earned income of full time students, other than head or spouse, will be counted towards family income.

Financial aid, scholarships and grants received by full time students are not counted towards family income. A full-time student is determined by the educational institution.

Verification of full-time student status includes:

1. Written verification from the registrar's office or other school official indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.
2. Oral third-party must be documented in the applicant/participant file.
3. If verification cannot be received directly from the educational institution to the HACM, the file must be documented with the reason.

F. INCOME FROM ASSETS [24 CFR 982.516]

Acceptable methods of verification include, in this order:

Savings Account Interest Income and Dividends

Where the family has net family assets in excess of \$5,000, HACM must obtain supporting documentation (e.g. bank statements) from the family to confirm the assets. Will be verified by:

Account statements, passbooks, certificates of deposit, or HACM verification forms completed by the financial institution.

Broker's statement showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained from current newspaper quotations or oral broker's verification.

IRS Form 1099 from the financial institution, provided that the HACM must adjust the information to project earnings expected for the next 12 months.

The HACM will require the necessary information to determine the current cash value of each asset (the net amount the family would receive if the asset were converted to cash).

Interest Income from Mortgages or Similar Arrangements

A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless a breakdown of interest and principal is shown).

Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification.

Net Rental Income from Property Owned by Family

IRS Form 1040 with Schedule E (Rental Income).

Copies of latest rent receipts, leases, or other documentation of rent amounts.

Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statement or amortization schedules showing monthly interest expense.

Lessee's written statement verifying rent payments to the family and family's self-certification as to net income realized.

Assets Dispose of for Less than Fair Market Value (FMV) During Two Years Preceding Effective Date of Certification or Recertification

For all Certifications and Recertifications, the HACM will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification.

If the family certifies that they have disposed of assets for less than fair market value, verification [or certification] is required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the market value of the assets at the time of disposition. Third party verification will be obtained wherever possible.

G. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME [24 CFR 982.516]

The HACM will use documents in lieu of requesting third-party verification when an expense is less than \$500 annually and the family has original documents that support the detailed amount.

Child Care Expenses

Written verification from the person who receives payment is required. If the child care provider is an individual, s/he must provide a statement of the amount they are charging the family for their services.

Verifications must specify the child care provider's name, address, telephone number, Social Security number, then names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods.

Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

Medical Expenses

Families who claim medical expenses or expenses to assist a person/s with a disability will be required to submit a certification that expenses they are claiming are not reimbursed or paid by an outside individual, insurance company, governmental agency or other source.. All expense claims will be verified by one or more of the methods listed below:

1. Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which expenses, if any will be reimbursed by insurance or a government agency.
2. Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.
3. Written confirmation from the Social Security Administration's written of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.

4. Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.
5. Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.
6. Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. HACM may use this approach for “general medical expenses” such as non-prescription drugs and regular visits to doctors or dentists, but not for one-time, nonrecurring expenses from the previous year.

The HACM will use mileage at the IRS rate, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment that is expected in the current year.

For attendant care:

1. A reliable, knowledgeable professional’s certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.
2. Attendant’s written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.

Assistance to Persons with Disabilities [24 CFR 5.611(c)]

In All Cases:

Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.

Family’s certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

Attendant Care: Attendant’s written certification of amount received from the family, frequency of receipt, and hours of care provided and written certification from doctor or rehabilitation agency, that the care is necessary to employment of household member.

Certification of family and attendant and/or copies of canceled checks family used to make payments.

Auxiliary Apparatus:

Written certification from source of cost and purpose of apparatus. Written certification from doctor or rehabilitation agency that use of apparatus is necessary to employment of any household member. In case where the disabled person is employed, statement from employer that apparatus is necessary for employment.

Copies of receipts or evidence of periodic payments for apparatus.

Medicare Prescription Drug Benefits

The HACM must treat any medical prescription drug discount cards and transitional assistance received by a family as a standard medical deduction so that the family continues to receive a deduction for the full cost of its prescription drugs.

- This means that neither the drug discount nor the transitional assistance should be considered in reimbursement for the purpose of calculating the family's medical expense deduction.
- This also means that the HACM must verify the FULL cost of the family's prescription drugs, not the out-of-pocket cost to the family.

H. VERIFYING NON-FINANCIAL FACTORS [24 CFR 982.153(b) (15)]

Verification of Legal Identity

In order to prevent program abuse, the HACM will require applicants to furnish verification of legal identity for all family members.

One or more of the documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required. (HACM has the discretion to determine what is needed for verification.)

- * Current, valid Driver's license or Department of Motor Vehicles Identification Card
- * Certificate of Birth, Hospital Certificate, Naturalization papers, Adoption papers
- * Legal Alien Card
- * Church issued baptismal certificate
- * U.S. military discharge (DD 214)
- * U.S. Passport
- * Voter's Registration Card

- * Company/agency Identification Card
- * Court Records (marriage, divorce, bankruptcy etc.)

Documents considered acceptable for the verification of legal identity for minors may be one or more of the following:

- * Certificate of Birth, Hospital Certificate, Naturalization Papers
- * Legal Alien Card
- * Adoption papers
- * Custody agreement
- * Health and Human Services ID
- * School records
- * Church Baptismal records

Verification of Marital Status

Verification of marital status must be verified to determine marital status and relationships. The following will be considered acceptable verification:

- * A certified copy of the marriage certificate or a divorce/dissolution decree, signed by a Court Officer.
- * Verification of a separation may be a copy of court-ordered maintenance or other official records.

Familial Relationships

The following verifications will be required if applicable:

Verification of relationship:

- Official identification showing names
- Birth Certificates
- Baptismal certificates

Verification of guardianship is:

- Court-ordered assignment
- Verification from social services agency
- School records

Verification of Permanent Absence of Adult Member

If an adult member who was formerly a member of the household is reported permanently absent by the family, the HACM will consider any of the following as verification:

1. Husband or wife institutes divorce or legal separation.
2. Order of protection/restraining order obtained by one family member against another.
3. Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.
4. Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.
5. If no other proof can be provided, the HACM will accept a self-certification from the family.
6. If the adult family member is incarcerated, a document from the Court or correctional facility should be obtained stating how long they will be incarcerated.
7. If no other proof can be provided, the HACM will accept a self-certification from the head of household or the spouse or co-head, if the head is the absent member.

Verification of Change in Family Composition

The HACM may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or DMV records, law enforcement agencies, and other sources.

When the family notifies the HACM of a family member leaving the assisted household, they must furnish the following information:

- The date the family member moved out and the new address of the family member if available.
- The HACM may require the family to verify that the person is residing at the new address.

Verification of Disability

Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7) or verified by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker, using the HUD language as the verification format. The HACM has a verification form specifically for this purpose and this form must be used for the verification of disability.

Verification for Approval of Live In Aide Attendant

A Live in Aide will not be approved to reside in the unit if the HUD definition of a live in aide is not met. Also, the HACM will also not approve the addition of the live in aide in the unit in any of the following cases:

1. The live in aide has been on a federal housing program and evicted from public housing or terminated from Housing Choice Voucher Program due to program violation.
2. The live in aide owes any amounts of money to any federal housing program.
3. The live in aide has drug related criminal activity, violent criminal activity, (includes registered sex offenders) as pertains to this administrative plan, or HUD regulations; or the live in aide whose alcohol abuse, or criminal activity hinders the health, safety or peaceful enjoyment of other persons residing in the immediate vicinity of the premises.
4. The live in aide has employment outside of the home.
5. Another person is residing in the unit who is capable of providing the care for participant.
6. Participant requiring live in aide must supply the HACM with verification from a reliable, knowledgeable professional, such as a medical doctor, social worker or case worker. The verification must demonstrate that a live-in aide is necessary and the family would not be equally well served by a home health care service or a care provider who does not live in the unit. This verification will be required to be given to the HACM not only at the initial time the live-in aide begins to reside in the subsidized unit but also at every annual re-certification thereafter.
7. No other additional family members of live in care attendant may reside in unit with participant.

In instances where the family receives payments from Human Services through the In Home Supportive Services (IHSS) program, the live-in aide reported to the HACM must be the same person on record with IHSS.

The HACM may deem it necessary to re-verify the necessity of a live-in aide at any time. The family will be required to submit verification at every annual recertification.

The live-in aide's qualification for housing occupancy terminates when the individual needing the supportive services leaves the unit or fails to qualify for continued occupancy. The live-in aide does not qualify for continued occupancy or where the need for live-in aide's assistance ceases as a remaining member of the tenant family, even if they are related by blood, marriage or operation of law.

Verification of Citizenship/Eligible Immigrant Status [24 CFR 5.508, 5.510, 5.512, 5.514]

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contend their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Each family member must declare his or her status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the HACM hearing is pending.

- (a) Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury. The HACM will require verification.

Acceptable documentation will include at least one of the following original documents:

United States birth certificate
United States passport
Resident alien/registration card
Social security card
Other appropriate documentation as determined by the PHA.

- (b) Eligible Immigrants who were Participants and 62 or over on June 19, 1995, are required to sign a declaration of eligible immigration status and provide proof of age.
- (c) Noncitizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. The HACM verifies the status through the INS SAVE system. If this primary verification fails to verify status, the HACM must request within ten days that the INS conduct a manual search.
- (d) Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.
- (e) Noncitizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

Failure to Provide. If an applicant or participant family member fails to sign required declarations and consent forms or provide documents, as required, they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.

Time of Verification

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination.

The HACM will not provide assistance to any family prior to the affirmative establishment and verification of the eligibility or non-eligibility of all family members.

For family members added after other members have been verified, the verification occurs at the time the family requests the addition of the family member.

Extensions of Time to Provide Documents

The HACM will grant an extension up to 30 business days for families to submit evidence of eligible immigrant status.

Acceptable Documents of Eligible Immigration

The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register.

Resident Alien Card (I-551)

Alien Registration Receipt Card (I-151)

Arrival-Departure Record (I-94)

Temporary Resident Card (I-688)

Employment Authorization Card (I-688B)

Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified

A birth certificate is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept five years.

The HACM will verify the eligibility of a family member at any time such eligibility is in question, without regard to the position of the family on the waiting list.

Verification of Social Security Numbers [24 CFR 5.216]

Social security numbers must be provided as a condition of eligibility for all family members age six and over if they have been issued a number. Verification of Social Security numbers will be done through a Social Security Card issued by the Social Security Administration.

If a family member cannot produce a Social Security Card, only the documents listed below showing his or her Social Security Number may be used for verification. The family is also required to certify in writing that the document(s) submitted in lieu of the Social Security Card information provided is/are complete and accurate:

- A driver's license
- Identification card issued by a Federal, State or local agency
- Identification card issued by a medical insurance company or provider (including Medicare and Medicaid)
- An identification card issued by an employer or trade union
- Earnings statements or payroll stubs
- Bank Statements
- IRS Form 1099
- Benefit award letters from government agencies
- Retirement benefit letter
- Life Insurance policies
- Court records such as real estate, tax notices, marriage and divorce, judgment or bankruptcy records
- Verification of benefits or Social Security Number from Social Security Administration

New family members ages six and older will be required to produce their Social Security Card. This information is to be provided at the time the change in family composition is reported to the HACM.

If an applicant or participant is able to disclose the Social Security Number but cannot meet the documentation requirements, the applicant or participant must sign a certification to that effect provided by the HACM. The applicant/participant or family member will have an additional **60** days to provide proof of the Social Security Number. If they fail to provide this documentation, the family's assistance will be terminated.

In the case of an individual at least 62 years of age, the HACM may grant an extension for an additional 60 days to a total of 120 days. If, at the end of this time, the elderly individual has not provided documentation, the family's assistance will be terminated or participation will be denied.

If the family member states they have not been issued a number, the family member will be required to sign a certification to this effect.

Any submission of a fraudulent Social Security Number or Social Security Card document by the family will be grounds for termination or denial of admission to the program.

Medical Need for Larger Unit

A written certification that a larger unit is necessary must be obtained from a reliable, knowledgeable professional. If the family member gets written certification that the need for the larger unit is based on a permanent disability, this certification will only need to be obtained once. If the certification does not indicate how long the larger unit is necessary, the medical need will be verified annually at the recertification.

When a victim of domestic violence requests special consideration, (e.g. to transfer to another unit during the first year of tenancy, or to refrain from being terminated from the HCV program due to be evicted from a unit as a result of being a victim of a domestic violence act), the HACM will require that the individual certify via a HUD-approved certification form that s/he is a victim of domestic violence, dating violence, or stalking, and that the incident/s in question are bona fide incidents of the actual or threatened abuse: as well as to provide any documentation required by the HACM such as a police report or court record relating to the violent act.

I. VERIFICATION OF WAITING LIST PREFERENCES [24 CFR 982.207]

Independent Living Skills Program: Foster youth/young adults transitioning from foster care and who are at risk for homeless and who are referred by partnering agency where MOU is in place.

Involuntarily Displaced: written verification must be made by local, state or federal agency verifying declared disaster.

Homeless Preference: written verification must be provided by partnering homeless service organization who are a part of the Merced County Continuum of Care and have signed agreement with the HACM.

Veteran Preference: The HACM will require US Government documents, which indicate that the applicant qualifies under the following definition: a veteran is any person who served in the United States military or served 6 years as a reservist or national guardsman (not including the two years of standby).

If the spouse is applying for a veteran status, verification will be required of marital status to the veteran. If the veteran is deceased, the spouse cannot have remarried.

Residency Preference: verification that person currently lives, works or has been hired to work within the HACM's area of jurisdiction.

Elderly Preference: verification of birth or Social Security or Supplemental Security benefits.

Disabled Preference: verification of Social Security disability benefits or completion of HACM's disability verification form.

Chapter 8

VOUCHER ISSUANCE AND BRIEFINGS

[24 CFR 982.301, 982.302]

INTRODUCTION

The HACM's goals and objectives are designed to assure that families selected to participate are equipped with the tools necessary to locate an acceptable housing unit. Families are provided sufficient knowledge and information regarding the program and how to achieve maximum benefit while complying with program requirements. When eligibility has been determined, the HACM will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, HACM procedures, and how to lease a unit. The family will also receive a briefing packet, which provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration. This Chapter describes how briefings will be conducted and the information that will be provided to families.

A. ISSUANCE OF VOUCHERS [24 CFR 982.204(d), 982.54(d)(2)]

When funding is available, the HACM will issue Vouchers to applicants whose eligibility has been determined. The issuance of Vouchers must be within the dollar limitations set by the ACC budget.

The number of Vouchers issued must ensure that the HACM stays as close as possible to 100 percent lease-up. The HACM performs a monthly calculation to determine whether applications can be processed, the number of Vouchers that can be issued, and to what extent the HACM can over-issue (issue more Vouchers than the budget allows).

The HACM may over-issue Vouchers only to the extent necessary to meet leasing goals. All Vouchers, which are over-issued, must be honored. If the HACM finds it is over-leased, it must adjust future issuance of Vouchers in order not to exceed the ACC budget limitations over the fiscal year.

B. BRIEFING TYPES AND REQUIRED ATTENDANCE [24 CFR 982.301]

Initial Applicant Briefing

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in large groups, smaller groups, and individual meetings. Families who attend group briefings and still have the need for individual assistance will be referred to their selected eligibility specialist.

Portable families coming into Merced County's jurisdiction, whether absorbed or not by HACM, will be required to attend the scheduled voucher briefing.

The purpose of the briefing is to explain how the program works and the documents in the Voucher holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss the program with potential owners and property managers.

The HACM will not issue a Voucher to a family unless the household representative has attended a briefing and signed the Voucher. Applicants who provide prior notice of inability to attend a briefing, and the HACM staff confirms that it is a valid reason, will be scheduled for the next briefing. Applicants who fail to attend the first scheduled briefing, without prior notification and approval of the HACM, may be denied admission. The HACM will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

If the family includes a person with disabilities, the HACM will ensure compliance with 24 CFR 8.6 to ensure effective communication.

Briefing Packet [24 CFR 982.301(b)]

The documents and information provided in the briefing packets for the Voucher programs will comply with all HUD requirements. The HACM also includes other information and/or materials, which are not required by HUD.

The family is provided with the following information and materials:

1. A completed HUD Voucher, showing the term of the voucher, and the HACM policy for requesting extensions to the term of the voucher or suspensions of the voucher.
2. A description of the method used to calculate the housing assistance payment for the family, including how the HACM determines the payment standard for a family; how the HACM determines total tenant payment for a family and information on the payment standard and utility allowance schedule.
3. How the maximum allowable rent is determined.

4. The boundaries of the geographical area in which the family may lease a unit including an explanation of portability.
5. The HUD required tenancy addendum, which must be included in the lease.
6. The Request for Tenancy Approval form, and a description of the procedure for requesting approval for a unit.
7. HACM privacy notice on providing information about families to prospective owners.
8. The Subsidy Standards, when and how exceptions are made.
9. The HUD brochure, "A Good Place to Live" on how to select a unit that complies with HQS.
10. The HUD brochure on lead-based paint, including form for Disclosure of Lead Based Paint to be signed by owner and Housing Choice Voucher participant.
11. Information on federal, State and local equal opportunity laws including the pamphlet "Fair Housing: It's Your Right" and other information about fair housing laws and guidelines; the form for reporting suspected discrimination; and the phone number of the local fair housing agency.
12. A unit listing of landlords interested to lease to assisted families.
13. Available accessible units known to the HACM will be identified on the unit listing form.
14. The Family Obligations and Owner responsibilities under the program.
15. Informational Sheet on Reporting Changes in Family Income/Composition and Policy on Missed Appointments
16. The grounds on which the HACM may terminate assistance for a participant family because of family action or failure to act.
17. Sample of a HUD contract.
18. Any supplemental material the Housing Choice Voucher Department may deem necessary, such as:
 - HUD Inspection Form/Initial
19. Information packet including an explanation of how portability works, including a list of neighboring housing agencies with the name, address and telephone number of a portability contact person at each for use by families who move under portability.

20. Expanding Housing Opportunities, includes:

- Maps of Poverty and Minority Areas (Low Poverty and Low Minority Areas), as well as Housing Choice Voucher Impacted Areas
 - Information includes schools, employment and any outreach programs.
- Bus routes

21. HUD Form 903.1 – “Are You a Victim of Housing Discrimination?”

22. Intent to Vacate Notice

23. HACM Informal Hearing procedures including when the HACM is required to offer an applicant or participant family the opportunity for an informal hearing, and how to request the hearing.

24. Family Self-Sufficiency Brochure

25. HACM’s sample lease for owners who do not use their own lease for their tenants.

Other Information to be Provided at the Briefing [24 CFR 982.301(a)]

The person conducting the briefing will also describe how the program works and the relationship between the family and the owner, the family and the HACM, and the HACM and the owner.

The briefing presentation emphasizes:

- Family and owner responsibilities
- Where a family may lease a unit inside and outside its jurisdiction
- How portability works for families eligible to exercise portability
- Advantages to moving to area with low concentration of poor families if family is living in a high poverty census tract in the HACM’s jurisdiction
- Choosing a unit carefully and only after due consideration.
- Procedures for notifying the HACM of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.
- The family’s rights as a tenant and a program participant

- Requirements for reporting changes between annual recertifications.
- Advantages of Family Self-Sufficiency Program

Transfer/Moves

Participants who wish to move from one unit to another, will be given a move out packet at the time they submit their Intent to Vacate Notice that is signed by Owner/Agent and tenant. Family will be issued a new voucher to begin their housing search and will not be required to attend a briefing.

Owner Briefings

Briefings will be held periodically for all owners. Current owners are notified by mail and prospective owners verbally informed via the phone. The purpose of the briefing is to assure successful owner participation in the program and to review Federal regulations and HACM policies and procedures. It includes the responsibilities and roles of all three parties.

C. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION

At the briefing, families are encouraged to search for housing in non-impacted areas and the HACM will provide assistance to families who wish to do so.

The HACM has areas of poverty and minority concentration clearly delineated in order to provide families with information and encouragement in seeking housing opportunities outside highly concentrated areas.

D. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION

If staff receives a Fair Housing complaint, it will be referred immediately to Management pursuant to the Fair Housing Complaint Investigation Policy of the HACM (refer to Chapter 1).

Any Fair Housing complaints will be fully investigated and reviewed by HACM pursuant to said policy.

The HACM will then take whatever appropriate action is necessary.

E. SECURITY DEPOSIT REQUIREMENTS [24 CFR 982.313]

The owner is not required to but may collect a security deposit from the tenant.

Security deposits charged by owners may not exceed those charged to unassisted tenants (nor the maximum prescribed by State or local law.)

For lease-in-place families, responsibility for first and last month's rent is not considered a security deposit. In these cases, the owner should settle the issue with the tenant prior to the beginning of assistance.

F. TERM OF VOUCHER [24 CFR 982.303, 982.54(d)(11)]

During the briefing session, each household will be issued a Voucher, which represents a contractual agreement between the HACM and the Family specifying the rights and responsibilities of each party. It does not constitute admission to the program, which occurs when the lease and contract become effective.

Expirations

The Voucher is valid for a period of 60 calendar days from the date of issuance. The family must submit a Request for Tenancy Approval within the 60-day period unless a request for a reasonable accommodation has been granted by the HACM.

If the Voucher has expired, the family will be denied assistance. The family will not be entitled to a review or hearing. The family will need to reapply to the program.

If the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect before the 60-day period has expired.

Suspensions

When a Request for Tenancy Approval is received, the HACM will deduct the number of days required to process the request from the term of the voucher (called tolling or suspension).

Extensions

Any requests for an extension of the voucher time period must be made prior to the expiration date of the voucher. Extensions may be granted with supervisory approval at the discretion of the HACM, primarily for, but not exclusive of, any of the following reasons:

- It is necessary as a reasonable accommodation for a person with disabilities,
- Extenuating circumstances such as illness, hospitalization or a family emergency, which affected the family's ability to find a unit within the voucher time period;
- Family can show evidence, through a completed search record, that they were unable to locate a unit;

- Family has submitted Request(s) for Tenancy Approval that the HACM has disapproved (i.e., HACM unable to negotiate rent(s) with owner or unit(s) do not meet HQS);
- Family size or other special requirements made finding a unit difficult.

The HACM will request proof to substantiate the need for an extension.

The family may request one or more extensions.

Assistance to Voucher Holders

Voucher holders will be notified at their briefing session they may access updated listings of available units by visiting our office or the agency website at www.merced-pha.com.

The HACM will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

G. FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

Family Breakup (24CFR 982.315)

Except under the following conditions, the HACM 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, the HACM must ensure that the victim retains assistance.
- If a court determines the disposition of property between the members of an assisted family members continue to receive assistance.

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

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

In the absence of a judicial decision or an agreement among the original family members, the HACM will determine which family will retain their placement on the waiting list or continue to receive assistance. In making its determination, the HACM 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, sexual assault, 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; (5) the recommendations of social service professionals; and (6) given to the adult member who initially applied, if another adult member was added at a later time.

Note: If an adult member requests residual rights to the Voucher (head of household requests that other adult member receive the Voucher), the adult member who wishes to receive the Voucher, must have been an approved member of the household by the HACM for at least 6 months.

The HACM shall require verification of the above circumstances. If either or both of the families do not provide the documentation requested by the HACM, termination of the Voucher for failure to supply requested verifications will occur.

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-D, for the policy on “Caretaker for a Children.”

A reduction in family size may require a reduction in the voucher family unit size.

Chapter 9

REQUEST FOR TENANCY APPROVAL AND CONTRACT EXECUTION

[24 CFR 982.302]

INTRODUCTION [24 CFR 982.305(a)]

The HACM's program operations are designed to utilize available resources in a manner that is efficient and provides eligible families timely assistance based on the number of units that have been budgeted. The HACM's objectives include maximizing HUD funds by providing assistance to as many eligible families and for as many eligible units as the budget will allow.

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of the HACM

- Families will be permitted to move outside the HACM's jurisdiction under portability procedures after the first year of the lease (first year of admission to the Housing Choice Voucher Program)

The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments Contract with the HACM. This Chapter defines the types of eligible housing, the HACM's policies, which pertain to initial inspections, lease requirements, owner disapproval, and the processing of Requests for Tenancy Approval (RFTA).

A. REQUEST FOR TENANCY APPROVAL [24 CFR 982.302, 982.305(b)]

The Request for Tenancy Approval (RFTA) and a copy of the proposed Lease must be submitted by the family during the term of the voucher.

The Request for Tenancy Approval must be signed by both the owner and Voucher holder.

- The HACM will not permit the family to submit more than one RFTA at a time.
- The HACM will not permit the family to "back out" out of the submitted RFTA.

The HACM will review the proposed lease and the Request for Tenancy Approval documents to determine whether or not they are approvable.

The Request will be approved if:

1. The unit is an eligible type of housing

2. The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)
3. The rent is reasonable and approvable (See Section G).
4. The Security Deposit is approvable in accordance with any limitations in this plan.
5. The proposed lease complies with HUD and HACM requirements (See Section C).
6. The owner is approvable, and there are no conflicts of interest (See Chapter 16).
7. On initials or moves, the family share of rent does not exceed 40 percent of the family's adjusted income. (40% rule only applies to family's renting a unit where the gross rent is more than their payment standard for their voucher size.
8. The owner of the property is NOT related to the Housing Choice Voucher family as a parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the HACM determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities. The owner of the property CANNOT TRANSFER OWNERSHIP or property, such as, husband to wife, or vice versa, in order to meet this requirement.

Under Federal Regulations "owner" includes a principal or otherwise interested party.

9. The family continues to be eligible for the program.
10. At the time a family initially receives assistance in a unit (new admissions and moves), if the gross rent for the unit exceeds the applicable payment standard for the family, the family share of rent may not exceed 40 percent of the family monthly-adjusted income.

Disapproval of RFTA

If the HACM determines that the Request cannot be approved for any reason, the landlord and the family will be notified. The HACM will instruct the owner and family of the steps that are necessary to approve the Request.

The owner will be given a maximum of 30 calendar days to submit an approvable RFTA from the date of disapproval.

When an RFTA is not approved, the HACM will furnish another RFTA form to the family so that the family can continue to search for eligible housing, as long as the family is still

eligible for the Housing Choice Voucher Program. (Suspension (tolling) given for time previous RFTA was in effect.)

B. ELIGIBLE TYPES OF SPECIAL HOUSING [24 CFR 982.353]

The HACM will only approve the following special housing types. All other special housing types are ineligible.

- Manufactured home rented by family (with the space on which the home is located). (Excluded are manufactured homes owned by the family who leases a manufactured home space or who do not lease a space.)
- Shared Housing
- SRO (Single Room Occupancy)

A family can own a rental unit but cannot reside in it while being assisted.

The HACM may not permit a Voucher holder to lease a unit which is receiving Project-Based Housing Choice Voucher assistance or any duplicative rental subsidies, or any other housing prohibited by HUD.

C. LEASE REVIEW [24 CFR 982.308]

The HACM will not review the lease, except to assure that the utilities and appliances that are to be supplied by the owner or tenant are specified in the lease and that the initial term of the lease is included. Responsibility for utilities, appliances and optional services must correspond to those provided on the Request for Tenancy Approval.

The family and owner must submit a standard form lease used in the locality by the owner that is generally used for other unassisted tenants in the premises. The terms and conditions of the lease must be consistent with State and local law. The lease must specify what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family. The HUD prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed.

The lease must specify:

The names of the owner and tenant, and

The address of the unit rented (including apartment number, if any), and

The amount of the monthly rent to the owner, and

The utilities and appliances to be supplied by the owner, and

The utilities and appliances to be supplied by the family.

House Rules of the owner may be attached to the lease as an addendum, provided they are approved by the HACM to ensure they do not violate any fair housing provisions and do not conflict with the tenancy addendum.

If the owner does not have a standard form lease or wishes to use the HACM's standard lease, they may do so.

The HUD prescribed tenancy addendum must be included in the lease word-for-word before the lease is executed.

Effective September 15, 2000, the owner's lease must include the Lead Warning Statement and disclosure information required by 24 CFR 35.92(b).

The lease must provide that drug-related criminal activity engaged in by the tenant, any household member, or any guest on or near the premises, or any person under the tenant's control on the premises is grounds to terminate tenancy.

The lease must also provide that the owner may evict the family when the owner determines that:

Any household member is illegally using a drug; or

A pattern of illegal use of drug by any household member interferes with the health, safety or right to peaceful enjoyment of the premises by other residents.

Actions Before Lease Term

All of the following must always be completed before the beginning of the initial term of the lease for a unit:

The HACM has inspected the unit and has determined that the unit satisfies the HQS;

The HACM has determined that the rent charged by the owner is reasonable;

The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum;

The HACM has approved leasing of the unit in accordance with program requirements.

When the gross rent exceeds the applicable payment standard for the family, the HACM must determine that the family share (total family contribution) will not be more than 40% of the family's monthly adjusted income.

Note: effective February 1, 2005, the initial term of the lease will be 12 months. If owner elects to use own lease, the initial term of the lease must be for 12 months

D. SEPARATE AGREEMENTS

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

The family is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the HACM.

Any appliances, services or other items which are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by the HACM. If agreements are entered into at a later date, they must be approved by the HACM and attached to the lease.

E. INITIAL INSPECTIONS [24 CFR 982.305(a) & (b)]

See chapter of this administrative plan "Housing Quality Standards and Inspections."

F. RENT LIMITATIONS [24 CFR 982.507]

The HACM will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable unassisted unit in the building or premises.

- The HACM will disapprove the unit if the tenant's portion of rent plus the utility allowance or total family contribution (TFC) exceeds 40% of monthly-adjusted income, and the gross rent of the unit is larger than the payment standard for the family's voucher size.

By accepting each monthly housing assistance payment from the HACM, the owner certifies that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises. The owner is required to provide the HACM with information requested on rents charged by the owner on the premises or elsewhere.

At all times during the tenancy, the rent to owner may not be more than the most current reasonable rent as determined by the HACM.

G. DISAPPROVAL OF PROPOSED RENT [24 CFR 982.502]

In any of the programs, if the proposed Gross Rent is not reasonable, at the family's request, the HACM will negotiate with the owner to reduce the rent to a reasonable rent. If the rent is not affordable because the family share would be more than 40% of the family's monthly-adjusted income, the HACM will negotiate with the owner to reduce the rent to an affordable rent for the family.

At the family's request, the HACM will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to owner.

If the rent can be approved after negotiations with the owner, the HACM will continue processing the Request for Tenancy Approval and Lease. If the revised rent involves a change in the provision of utilities, the Request for Tenancy Approval must be initialed by the owner where the change of utilities has occurred.

If the owner does not agree on the Rent to Owner after the HACM has tried and failed to negotiate a revised rent, the HACM will inform the family and owner that the lease is disapproved.

H. INFORMATION TO OWNERS [24 CFR 982.307(b), 982.54(d)(7)]

In accordance with HUD requirements, the HACM will furnish prospective owners with the family's current and prior address as shown in the HACM's records and, if known to the HACM, the name and address of the owner at the family's current and prior address.

- The HACM will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

The HACM will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, payment of utility bills, eviction history, respecting the rights of other residents, damage to units, 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.

A statement of the HACM's policy on release of information to prospective landlords will be included in the briefing packet, which is provided to the family.

- The HACM will not provide documented information regarding tenancy history, except the HACM will provide the following information based on documentation in its possession: family composition, past annual inspections and rating of past housekeeping.

The information will be provided for the last 12 months only, and may be provided orally.

The HACM's policy on providing information to owners will apply uniformly to all families and owners.

I. OWNER DISAPPROVAL [24 CFR 982.306]

See chapter on "Owner Disapproval and Restriction."

J. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE

When the family reports changes in factors that will increase the Total Tenant Payment (TTP) prior to the effective date of the HAP contract at admission, the information will be verified but the TTP will not be recalculated until the first of the month following the lease up date/admission date. However, if the increase results in the family being over the low income limits for the Housing Choice Voucher program, the application will be withdrawn.

The TTP will be recalculated before the HAP contract is executed if the information results in a decrease to the TTP. If the family does not report any change, the HACM need not obtain new verifications before signing the HAP Contract, even if verifications are more than 60 days old.

If family is transferring from one unit to another, and annual re-examination was conducted within 4 months, the HACM does not need to re-verify income at the time the HAP contract and lease is executed, unless there has been a change in income.

K. CONTRACT EXECUTION PROCESS [24 CFR 982.305(c)]

The HACM prepares the Housing Assistance Payment Contract and lease for execution. The family and the owner will execute the Lease agreement, and the owner and the HACM will execute the HAP Contract. Copies of the documents will be furnished to the parties who signed the respective documents. The HACM will retain a copy of all signed documents.

The HACM makes every effort to execute the HAP Contract before the commencement of the lease term. The HAP Contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the contract is executed.

The following HACM representative(s) is/are authorized to execute a contract on behalf of the HACM: Eligibility Specialists/Supervisors; Housing Choice Voucher Manager; Housing Choice Voucher Director; Executive Director.

Owners must provide an Employer Identification Number or Social Security Number.

Owners must also submit proof of ownership of the property, such as a Grant Deed or Tax Bill, and a copy of the management agreement if the property is managed by a management agent, or have the HACM's Agent's Authorization form signed. HACM reserves the right to determine if verification submitted is sufficient or whether additional verification will be required.

The payee must provide a signed W-9 properly completed.

The owner must provide a home and business telephone number if applicable.

Unless their lease was effective prior to June 17, 1998, a family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member.

L. CHANGE IN OWNERSHIP (Also see Chapter on "Owner Disapproval and Restriction"

A change of ownership does not require execution of a new contract.

- The HACM will process a change of ownership only upon written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title and the Employee Identification Number or Social Security number of the new owner, along with a completed IRS form, W-9.
- The change of ownership cannot be backdated. When written verification of the change has been received by the HACM, the change will be effective the first of the following month.

- In changes of ownership, involving a divorce/dissolution, written verification as stated in first bullet will be required.

CHAPTER 10

HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

INTRODUCTION

Housing Quality Standards (HQS) are the HUD minimum quality standards for tenant-based programs. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and HACM contract.

The HACM may inspect each unit under contract at least annually/biennially. Biennial inspections may be utilized for units that have a record of good property maintenance and have two consecutive passes (pass or a pass with comment) on the last two annual HQS inspections. The HACM shall have a supervisor or other qualified person perform quality control inspections on the number of files required for file sampling by SEMAP annually to maintain the HACM's required standards and to assure consistency in the HACM's program. This Chapter describes the HACM's procedures for performing HQS and other types of inspections and HACM standards for the timeliness of repairs. It also explains the responsibilities of the owner and family, and the consequences of non-compliance with HQS requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and HACM requirements. (See the additions to HQS listed under "Acceptability Criteria and Exceptions to HQS" later in this chapter).

A. GUIDELINES/TYPES OF INSPECTIONS [24 CFR 982.401(a), 982.405]

All units must meet the minimum standards set forth in the building/housing Code. In cases of inconsistency between the Code and these HQS, the stricter of the two shall prevail.

Efforts will be made at all times to encourage owners to provide housing above HQS minimum standards.

All utilities must be in service prior to the effective date of the HACM contract. If the Inspector goes out to a unit and the utilities are not on, the Inspector will not conduct the inspection.

If the tenant is responsible for supplying the stove and/or the refrigerator, the HACM will allow the stove and refrigerator to be placed in the unit after the HACM has passed all other HQS requirements. The family must then certify that the appliances are in the unit and working. The HACM may or may not conduct a reinspection.

There are four types of inspections the Housing Authority will conduct:

1. Initial/Move-In inspection
Conducted upon completion of the Request for Tenancy Approval (RFTA) process.
2. Annual/Biennial Inspections
 - Annual inspections may be conducted within 12 months of the last HACM inspection.
 - Biennial Inspections may be conducted within 24 months of the last HACM inspection.

High performing units that have a history of passing HQS Inspections may qualify for biennial Inspections.

3. Special/Complaint
At request of the owner, the family, an agency, or a third-party a unit may be inspected to ensure compliance with HACM and HQS standards.
4. Quality Control Inspections
HACM will conduct inspections on a random sample of units to ensure consistency and accuracy.

Any time an inspector is present in an assisted unit, the inspector has the right to conduct a full inspection. If new HQS deficiencies are discovered during the time of the re-inspection, the new items must be noted. The owner and/or tenant will be notified to correct the deficiencies.

B. INITIAL HQS INSPECTION [24 CFR 982.401(a), 982.305(b)(2)]

The Housing Authority will conduct an initial inspection in the unit identified by the family and owner in the Request for Tenancy Approval. The owner/agent and Head of Household or spouse must be present.

The Housing Authority will determine whether the unit satisfies the HACM and HQS Standards and notify the family and owner of the determination within a reasonable time frame.

The initial inspection will be conducted to:

- Determine if the unit and property meet all HUD required HQS criteria and all HACM established inspections criteria.
- Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.
- Document information to be used for determination of rent reasonableness.

If the unit fails the initial inspection, the owner/family will be given up to 30 days to correct the items noted as Fail, at the Inspector's discretion, depending on the amount and complexity of work to be done. The owner will be advised to notify the HACM in writing once repairs are completed. The HACM will conduct a re-inspection. If the second inspection fails, the family and/or owner will be advised to notify the Housing Authority in writing that repairs have been completed and a third inspection will be conducted.

If the time period given by the Inspector to correct the repairs has elapsed, or the maximum number of failed inspections has occurred, the family must select another unit.

C. ANNUAL/BIENNIAL HQS INSPECTIONS [24 CFR 982.405(a)]

The Housing Authority conducts an inspection of each unit under HAP Contract biennially for qualifying units and annually for all other units in the Housing Choice Voucher program. HACM Local Inspection Standard deficiencies which cause a unit to fail must be corrected by the landlord unless it is a fail for which the participant is responsible.

The family must allow the Housing Authority to inspect the unit at reasonable times with reasonable notice. HACM considers reasonable hours to conduct an inspection between business hours Monday through Friday, 8:00am to 5:00pm.

The family and owner are notified of the date and time of the inspection appointment by mail. If the family is unable to be present, they may authorize a representative who is 18 years of age or older to be present to allow the inspector access to unit to conduct the inspection. The family may provide written permission for the property manager or owner to allow the inspector entry into the unit. If the family (or an adult) is unable to be present, they must reschedule the appointment so that the inspection is completed within thirty (30) days.

If the family (or an adult) is not present to allow access, the inspection is considered to be a participant-caused "no show" and the participant will be in non-compliance for violating a Family Obligation. The family will be sent a non-compliance letter giving the family one final inspection appointment.

If the family does not contact the Housing Authority to reschedule the inspection, or if the family misses two (2) inspection appointments, the Housing Authority will consider the family to have violated a family obligation and their assistance may be terminated in accordance with the termination procedures in Chapter 15 of this Administrative Plan.

Reinspection: The owner must notify the HACM in writing within 30 days of the mail date of the inspection report that all items are completed. Once the HACM receives the written certification (fax and/or email accepted) the HACM may schedule a reinspection appointment to verify the repairs. If the owner does not notify the HACM of repairs completed, a letter is forwarded to the owner warning of impending abatement and contract termination. A copy of this letter is sent to the client. Abatement begins on 31st day. A 30 day termination letter will be mailed to all parties.

The family is also notified that it is a Family Obligation to allow the HACM to inspect the unit. If the family was responsible for a breach of HQS identified in Chapter 15, "Denial or Termination of Assistance," they will be advised of their responsibility to correct.

Time Standards for Repairs

Emergency items which endanger the family's health or safety must be corrected by the owner within 24 hours of notification.

For non-emergency items, repairs must be made within 30 days

For major repairs, an extension beyond 30 days may be approved.

Rent Increases

Rent increases requested by owner may not be approved if the unit does not meet minimum Housing Quality Standards.

D. SPECIAL/COMPLAINT INSPECTIONS [24 CFR 982.405(c)]

If at any time the family or owner notifies the HACM that the unit does not meet Housing Quality Standards, the HACM may conduct an inspection.

The HACM may also conduct a special inspection based on information from third parties such as neighbors or public officials.

The HACM may inspect only the items which were reported, but if the Inspector notices additional deficiencies that would cause the unit to fail HQS, a full inspection may be conducted and the responsible party will be required to make the necessary repairs.

E. QUALITY CONTROL INSPECTIONS [24 CFR 982.405(b)]

Quality Control inspections shall be performed by the supervisor or other qualified person. A sampling of units throughout the year will be inspected to ensure that units maintain compliance with HACM inspection standards and also to ensure that each inspector is conducting accurate and complete inspections, and that there is consistency among inspectors in application of the HQS.

The sampling of files will include recently completed inspections (within the prior 3 months), a cross-section of neighborhoods, and a cross-section of inspectors.

F. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS [24 CFR 982.401]

The HACM adheres to the Acceptability Criteria in the program regulations 24 CFR 982.401 and local codes, with the additions described below:

Thermal Environment

- Primary heat source must be capable of maintaining an even temperature of 65 degrees at a height of 36" from the floor in all rooms in the unit living and sleeping area.
- A working air conditioning or cooling system capable of cooling one central area of the unit is required where any monthly average temperature exceeds 95 degrees.

Water Heaters

- Water heater tanks must have two earthquake straps in place, one in the top third of the tank and one in the bottom third of the tank.

Walls:

- In areas where plaster or drywall is sagging, severely cracked or otherwise damaged, it must be repaired or replaced.
- Any exterior or interior surfaces with peeling or chipping paint on units built prior to 1978 must be scraped and painted with two coats of unleaded paint or other suitable material, according to lead-based paint abatement regulations. If the peeling or chipping paint is excessive on units built 1978 and after, scraping and repainting will also be required.
- Any exterior or interior surfaces with graffiti must be painted with as many coats of unleaded paint or other suitable material to cover all the graffiti.
- All walls in a tub or shower area must be covered with ceramic tile or other material that is impervious to water to prevent water damage and eventual deterioration.
- Any exterior vents must be covered to prevent rodents from entering the unit.
- Visible mold/mildew must be eliminated

Windows:

- All window sashes must be in good condition, solid and intact, and fit properly in the window frame. Damaged or deteriorated sashes must be replaced.
- Windows must be weather-stripped as needed to ensure a watertight seal.
- Any room for sleeping must have a window.
- Units will be required to have an air conditioning unit or evaporative cooler supplied by the owner. However, if the tenant's preference is not to have an air cooling device, the unit will then be required to have screens on all exterior doors and windows at the time of the initial and annual inspection. (Windows must open to outside). In all other initial and annual inspections, the unit will require one screen at one window per room. All screens must be in place on all second story and higher windows at all times.
- Window screens must be in good condition. (Applies only if screens are present or a required per HQS.)

Doors:

- All exterior doors must be weathertight to avoid any air or water infiltration, have no holes larger than the size of a quarter (coin), have all trim intact, and have a threshold.
- All interior doors must have a doorknob and all trim intact. Tenant must have keys.
- Doors must be present on all bedrooms and rooms used for sleeping and bathrooms. Doors need not be present on the master bedroom bathroom.
- All exterior doors must have single cylinder deadbolt locks, front and back doors, which includes the garage door. Garage door to the interior of the unit must have self-closing hinge and be solid (no windows).
- All interior doors must not have keyed locks; privacy locks are permissible
- All exterior and interior doors must have doorknobs.

Floors:

- All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced.

- All floors must be in a finished state, including common hallways and balconies.

Electricity

- GFCI outlets must work properly. If 3-prong, must be grounded.
- No open light sockets allowed.
- Globes on interior lights are not required.

Toilet Seats

- Cracked toilet seats and tank lids must be replaced.
- Toilet tank lid must fit properly

Sinks:

- All sinks and commode water lines must have shut off valves, unless faucets are wall mounted.
- Garbage disposal must have acceptable splashguard. Worn splashguards are unacceptable.

Cabinets:

- If present, cabinet drawers and doors must be in tact, with proper door hinges and on tracks.

Countertops:

- In areas where tile is broken or grout is missing, it must be repaired or replaced if it poses a sanitary hazard.

Security:

- If window security bars or security screens are present on emergency exit window, 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.

Fire Safety:

- The garage-to-house connecting door must self-close, latch properly when it closes, and to be sealed to prevent airflow around all four edges.

- Excessive accumulation of material or belongings in unit must not hinder movement through the unit in an emergency.
- A common wall between a garage and the interior area of the unit must provide a firebreak by having the garage side of the wall finished with 5/8" drywall. All joints, corners, holes or cracks must be properly sealed with joint tape and taping compound.

Smoke Detectors:

- Tenants are responsible for providing and replacing old batteries on battery powered smoke detectors unless prohibited by manager/owner of property. Tenants will be instructed not to tamper with smoke detectors or remove batteries, and to notify the owner if the smoke detector becomes inoperable for whatever reason.
- Each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, in each bedroom, hallway and on each level of the dwelling unit, including basements.

Carbon Monoxide Detectors:

At the time of the HQS inspection, any unit having a fossil fuel burning heater or appliance, fireplace, or an attached garage must have a carbon monoxide detection device installed. Placement of the device should be as follows:

- There must be one centrally located outside of each separate sleeping area in the immediate vicinity of the bedrooms, and each detector shall be located on the wall or ceiling. Any other location is only acceptable if specified in the installation instructions that accompany the unit. If there are distinctly separate sleeping areas in the unit, there must be a detector for each sleeping area.
- There must be at least one carbon monoxide detector on each level of the unit.
- Carbon monoxide detectors cannot be installed directly above, or next to a fuel burning appliance.
- If the device is a combination carbon monoxide device and smoke detector, then the combined device must emit an alarm or voice warning in a manner that clearly differentiates between a carbon monoxide alarm warning and a smoke detector warning.
- Tenants are responsible for providing and replacing old batteries on battery powered carbon monoxide detectors unless prohibited by manager/owner of property. Tenants will be instructed not to tamper with carbon monoxide detectors or remove batteries, and to notify the owner if the carbon monoxide detector becomes inoperable for whatever reason.

Bedroom:

- A bedroom must have a floor area of not less than seventy (70) square feet.
- Bedrooms in basements or attics are not allowed unless they meet local code requirements; must have adequate ventilation, emergency exit capability and a smoke detector.
- Minimum bedroom ceiling height is 7'6" or local code, whichever is greater. Sloping ceilings may not slope to lower than five feet in the 70 square foot area.
- Access to any required exits of a room or suite of rooms designated as bedrooms for these purposes is permissible passing through a bathroom, toilet room, or another bedroom, if all bedrooms or rooms used as sleeping areas have an emergency exit.
- Each bedroom must have a window present that can be opened.
- Rooms identified as bedroom must have a closet and a door for privacy.
 - Free standing closets may substitute built-in closets, if no hazard is posed.
 - If a closet is present, a clothes pole must be provided by the owner.
- Closet doors are not required; will be considered a tenant preference.
- Closet door guides will not be required if it does not pose a potential safety risk.

Sanitary:

- The HACM may fail unsanitary conditions where exposed food, garbage, and excrement exist to a degree where health may be endangered.
- Trash bags will not be considered "adequate covered facilities" in buildings with four or more units.
- Private water supply systems (wells) may be required to be tested.
- Septic tanks will require leechlines.
- Excessive grease buildup on the stove or overhead is considered a fail item due to fire hazard.
- The accumulation of waste paper, hay, grass, dirt, straw, weeds, litter or combustible trash upon the premises or in front of said premises or upon any roof

or building, entrance way, court, or yard is a condition detrimental to health, safety, or general welfare is prohibited.

Modifications:

- Modifications or adaptations to a unit due to a disability must meet all applicable HQS and building codes.
- Extension for repair items not required by HQS will be granted for modifications/adaptations to the unit if agreed to by the tenant and landlord. HACM will allow execution of the HACM contract if unit meets all requirements and the modifications do not affect the livability of the unit.

Landscaping:

- All yards must conform to neighborhood standards. Single family units or duplexes must have one operating outside water faucet.

Miscellaneous:

- The existence of any unused and abandoned open pipe, well, or excavation, building foundation, or buildings which are abandoned, or boarded up, partially destroyed, or unfinished and not properly secured on the property is prohibited.
- The keeping and storage of property owned by the owner on the property is allowable if:
 - Property is in storage shed that is locked.
 - Accessible to the Owner without disturbing tenant.
 - Storage shed detached from the unit.
 - No hazardous materials can be stored in the shed.
 - Allowable if detached garage; however, all of the above applies and in addition,
 - HACM will require signed statement from participant that they are aware and allowing owner permission to store belongings in the detached garage.
 - HACM will reduce contract rent by at least \$20 in order to comply with rent reasonableness.
- The keeping and storage of an inoperable, dismantled, or not currently registered automobile, trailer, house trailer, boat or vehicle or major part thereof within the

view of persons on the public streets or other properties adjacent to said premises is prohibited.

- Tenant may not park vehicles on the lawn.
- Swimming pools are allowed in single family and multi-family units, as long as they are properly secured and must be clean and sanitary to avoid health hazards. Swimming pools are defined as pools that are more than 2 feet in depth. Included but not limited to: Wading/swimming pools, below or above ground pools, ponds requiring filters. They must be properly secured with a fence that separates it from the remainder of the yard, have a self locking gate, fence must be at least 4 feet high and recommended pool gate alarm.
- Community swimming pools, such as those in an apartment complex, must be at all times clean and sanitary, to avoid health hazards. In addition, pool must be secured with a fence/security gate at times when pool is not open. Management must take all other signs and safety precautions adhering to pool regulations.
- Fireplaces must have a “cap”/spark arrester. The HACM may require at the time of inspection that the chimney be cleaned and/or inspected.

G. EMERGENCY REPAIR ITEMS [24 CFR 982.404(a)]

Emergency items that are identified through an inspection or verified by another public agency which endanger the family's health or safety must be corrected by the owner within twenty-four (24) hours of notification.

The following items are considered of an emergency nature and must be corrected within twenty-four (24) hours of notice by the HACM:

- Ceiling in imminent danger of falling or other dangerous structural damage
- Lack of security for the unit
- Major plumbing leaks or flooding, i.e. water heater, sewage leak
- Natural gas leak or fumes, includes water heater vent pipe terminated improperly or missing
- Electrical problem which could result in shock or fire, exposed live wiring, exposed contacts of outlets and switches
- No heat or air conditioning when weather conditions dictate a need for health and safety reasons
- Utilities not in service
- No running hot water
- Broken glass where someone could be injured
- Obstacle which prevents tenant's entrance or exit
- Lack of functioning toilet

- No operable refrigerator or stove
- Unit must have at least one operable smoke alarm.

The HACM may give a short extension not more than 72 additional hours whenever the responsible party cannot be notified or it is impossible to affect the repair within the 24-hour period.

In those cases where there is leaking gas or potential of fire or other threat to public safety, and the responsible party cannot be notified or it is impossible to affect the repair, proper authorities will be notified by the HACM.

If the emergency repair item(s) are not corrected in the time period required by the HACM, the housing assistance payment will be abated and the HACM contract will be terminated. If the tenant is responsible and in violation of their family obligations, the HACM will take termination action against the tenant.

H. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)

[24 CFR 982.405, 982.453]

When it has been determined that a unit on the program fails to meet Housing Quality Standards, and the owner is responsible for completing the necessary repair(s) in the time period specified by the HACM, the assistance payment to the owner will be abated.

Abatement

A notice of abatement and termination of contract will be sent to the owner after the unit is found in noncompliance with the HACM local inspection standards at the correction date. The abatement will be effective from the first day of the month after the date of the failed reinspection. The contract termination date will be 30 days after the effective date of the abatement.

The owner may still make repairs on the unit during the abatement period. However, the owner must notify the HACM in writing that all repairs have been completed. After receiving notification of completed repairs, the HACM may conduct a reinspection. The family and owner will be notified of the reinspection date in writing.

No retroactive payments will be made to the owner for the period of time the rent was abated and the unit did not comply with HQS. The notice of abatement states that the tenant is not responsible for the HACM's portion of rent that is abated.

Extensions

The HACM will grant an extension in lieu of abatement in the following cases:

- There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.
- The owner makes a good faith effort to make the repairs.

- The repairs must be delayed due to climate conditions.

Termination of Contract

If the owner is responsible for repairs, and fails to correct all the deficiencies cited prior to the end of the abatement period, the contract will be terminated. This termination is stated in the abatement notice and no further notice need be mailed. The participant receives a copy of the notice. Prior to the effective date of the termination, the abatement will remain in effect. The tenant will be issued a voucher to search for another unit.

If repairs are completed before the effective termination date, the termination may be rescinded by the HACM, if the tenant chooses to remain in the unit.

I. DETERMINATION OF RESPONSIBILITY [24 CFR 982.404, 982.54(d)(14)]

Certain HQS deficiencies are considered the responsibility of the family:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

The owner is responsible for all other HQS violations; other than those listed above.

The owner is responsible for vermin infestation even if caused by the family's living habits. However, if such infestation is serious and repeated, it may be considered a lease violation and the owner may evict for serious or repeated violation of the lease. The HACM may terminate the family's assistance on that basis.

The inspector will make a determination of owner or family responsibility during the inspection to the best of their ability. If the family is responsible but the owner carries out the repairs, the owner will be encouraged to bill the family for the cost of the repairs.

J. CONSEQUENCES IF FAMILY IS RESPONSIBLE [24 CFR 982.404(b)]

If emergency or non-emergency violations of HQS are determined to be the responsibility of the family, the HACM will require the family make any repair(s) or corrections within; 24-hours for emergency violations and thirty (30) days for non-emergency violations. If the repair(s) or correction(s) are not made in this time period,

the Housing Authority will terminate assistance to the family. The owner's rent will not be abated for items which are the family's responsibility.

If the tenant is responsible and corrections are not made, the HACM Contract will terminate when assistance is terminated.

A letter will be sent to the family and a copy to Landlord, advising landlord that the contract may be terminated immediately if family fails to comply and correct HQS deficiencies.

Family and Landlord are verbally notified of violation and that the family has 24 hours from time of notification to rectify the situation by providing written verification to the HA of the corrected HQS violation.

LEAD-BASED PAINT AND HQS [24 CFR Part 35]

In order to comply with the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the HUD regulations of September 15, 1999 the HACM will adopt the following policies. For all pre1978 dwelling units with a child under six years of age, during the initial and annual inspections, the HACM will conduct a visual assessment of all painted surfaces in order to identify any deteriorated paint. If deteriorated paint is found, the owner will be required to perform paint stabilization. If the area to be stabilized is above "de minimis levels", the owner will be required to use "safe work practices" as defined in 24 CFR Part 35.1350. For common terms used regarding lead hazard reduction see the end of this section.

Owner Responsibilities

The owner must notify the HACM and the family if aware of any known lead-based paint or lead-based paint hazards on the premises. This must occur prior to execution of the HAP contract.

The owner must perform paint stabilization when required by the HACM as a result of an HQS inspection.

Where a pre-1978 dwelling unit is occupied by a child of less than six years of age with an environmental intervention blood lead level (EIBLL), the owner will:

- be required to allow the HACM to conduct a risk assessment of the dwelling unit;
- be advised of the risk assessment inspection and given the opportunity to be present;
- upon receipt of a written report of the results of the above inspection, the owner must post notice to the tenant;
- if hazard conditions exist, the owner must comply with the scope of the work within 30 days;

- once interim controls or abatement (corrective actions to reduce or eliminate LBP hazards) have been completed, the owner must contract with a Certified Lead Inspector (CLI) for a clearance examination;
- once cleared by the CLI, a copy of the Clearance Report must be provided by the owner to the HAFC.

HACM Responsibilities

The HACM staff will conduct a visual assessment at initial and periodic inspections. If during the inspection the family informs the HACM staff person there is a child under 6 years of age with an EIBLL, staff is to give a written report to a Housing Choice Voucher manager.

The HACM will attempt to obtain from the health department names and/or addresses of children with EIBLL's. Such information will be matched with HACM address records of assisted families.

The HACM will report to the health department addresses of assisted units, unless the health department states it does not want such a report.

Lead-based paint inspection reports, with owner certifications, will be kept for a minimum of three years; indefinitely if chewable surfaces require testing.

As part of the briefing of applicant/participant families, the HACM will provide the household with a copy of the HUD brochure, "Protect Your Family from Lead in Your Home".

Where a pre-1978 dwelling unit is occupied by a child of less than six years of age with an environmental intervention blood lead level (EIBLL), and the HACM has received EIBLL notification by the health department or other medical health care provider, the HACM will:

- schedule a risk assessment within 15 days and give the owner an opportunity to be present;
- place the housing assistance payment on hold, if the written report reveals items which must be corrected;
- notify the owner in writing of the hold, and of the Lead Based Paint Hazard Reduction Procedures [letter], giving 30 days to correct all items;
- upon receipt of a clearance form per 24 CRF 35.1340, will release the housing assistance payment;
- notify the owner and family in writing of termination of the contract and housing assistance payments if the required clearance form is not provided by the end of the 30-day correction period;
- if the owner does not obtain a clearance, or if the family decides not to stay in the unit, the HACM will process the family's request to transfer to another unit, if the family serves a proper notice of intent to vacate and meets the other requirements to transfer.

The unit will be taken off the program and the property tracked so that it will not be allowed back on the program until such time as a clearance is supplied.

Common Definitions Regarding Lead-Based Paint

Below are some of the key terms used in this section. Other definitions are located in 24 CFR Part 35.7, 35.110.

Abatement means any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards. Abatement includes:

- The removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards; and
- All preparation, cleanup, disposal, and post abatement clearance testing activities associated with such measures.

Certified [Inspector] means licensed or certified to perform such activities as risk assessment, lead-based paint inspection, or abatement supervision, either by a State or Indian tribe with a lead-based paint certification program authorized by the Environmental Protection Agency (EPA), or by the EPA, in accordance with 40 CFR part 745, subparts L or Q.

Clearance Examination means an activity conducted following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and that no soil-lead hazards or settled dust-lead hazards, as defined in 24 CFR Part 35, exist in the dwelling unit or worksite. The clearance process includes a visual assessment and collection and analysis of environmental samples. Dust-lead standards for clearance are found in 24 CFR Part 35.1320.

De Minimis Levels (aka De Minimis Rule) means:

- 20 sq ft on exterior surfaces,
- 2 sq ft in any one interior room, or
- 10% of total surface area of an interior or exterior type component with a smaller surface area (e.g., window sills)

Deteriorated Paint means any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

Environmental Intervention Blood Lead Level (EIBLL) means a confirmed concentration of lead in whole blood equal to or greater than 20 ug/dl (micrograms of lead per deciliter) for a single test or 15 to 19 ug/dl in two tests taken at least 3 months apart.

Hazard Reduction means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of the two.

Interim Controls means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.

Paint Stabilization means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying new protective coating or paint.

Risk Assessment means: (1) An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and (2) The provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards.

Visual Assessment means looking for, as applicable: (1) Deteriorated paint; (2) Visible surface dust, debris, and residue as part of a risk assessment or clearance examination; or (3) The completion or failure of a hazard reduction measure.

Chapter 11

OWNER RENTS, RENT REASONABLENESS, AND PAYMENT STANDARDS

[24 CFR 982.502, 982.503, 982.504, 982.505, 982.507]

INTRODUCTION

The policies in this chapter reflect the amendments to the HUD regulations, which were implemented by the Quality Housing and Work Responsibility Act of 1998 for the Housing Choice Voucher Tenant-Based Assistance Program. These amendments became effective on October 1, 1999, which is referred to as the “merger date”. These amendments complete the merging of the Section 8 Certificate and Voucher Program into one program, called the Housing Choice Voucher Program.

All Section 8 participant families have been transitioned to the Housing Choice Voucher Program on or before October 1, 2001. Rent calculation methods for the Housing Choice Voucher Program are described in 24 CFR 982.505. The rent calculation formula is specific and is not subject to interpretation.

The HACM will determine rent reasonableness in accordance with 24 CFR 982.507(a). It is the HACM’s responsibility to ensure that the rents charged by owners are reasonable based upon unassisted comparables in the rental market, using the criteria specified in 24 CFR 982.507(b).

This Chapter explains the HACM’s procedures for determination of rent-reasonableness, payments to owners, adjustments to the Payment Standards, and rent adjustments.

A. RENT TO OWNER IN THE HOUSING CHOICE VOUCHER PROGRAM

The rent to the owner is limited only by rent reasonableness. The HACM must demonstrate that the rent to owner is reasonable in comparison to rent for other comparable unassisted units.

The only other limitation on rent to owner is the maximum rent standard at initial occupancy (24 CFR 982.508). At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, whether it is a new admission (in place or not) or a move to a different unit, the family share may not exceed 40 percent of the family’s monthly adjusted income. This 40 percent comparison is used only when the gross rent of the chosen unit is more than the payment standard.

During the initial term of the lease, the owner may not raise the rent (contract rent) to owner.

When raising the rent, the owner must give at least a 60-day written notice to the tenant and the HACM.

B. MAKING PAYMENTS TO OWNERS [24 CFR 982.451]

Once the HAP Contract is executed, the HACM begins processing payments to the owner. A HAP Register will be used as a basis for monitoring the accuracy and timeliness of payments. Changes are made automatically to the HAP register, by the Business Services Department, for the following month. Checks are disbursed by the Business Services Department to the owner each month. Checks may be picked up by an owner at the HACM; however, checks will only be disbursed after the first of the month once each week. Exceptions may be made with the approval of the Housing Choice Voucher Director in cases of hardship.

Checks that are not received by an owner will not be replaced until a written request has been received from the payee and a stop payment has been put on the check.

Excess Payments

The total of rent paid by the tenant plus the HACM housing assistance payment to the Owner may not be more than the rent to owner. The owner must immediately return any excess payment to the HACM.

Owners who do not return excess payments will be subject to penalties as outlined in the "Owner or Family Debts to the PHA" chapter of this Administrative Plan.

Late Payments to Owners

In keeping with generally accepted practices in the local housing market, the HACM must make housing assistance payments to the owner promptly and in accordance with the HAP contract.

C. RENT REASONABLENESS DETERMINATIONS [24 CFR 982.507]

The HACM will determine and document on a case-by-case basis that the approved rent is reasonable in comparison to rent for other comparable unassisted units in the market.

The HACM will not approve a lease until the HACM determines that the initial rent to owner is a reasonable rent. The HACM must redetermine the reasonable rent before any increase in the rent to owner, and if there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary.

The HACM must redetermine rent reasonableness if directed by HUD and based on a need identified by the HACM's auditing system. The HACM may elect to redetermine rent reasonableness at any other time. At all times during the assisted tenancy, the rent to owner may not exceed the reasonable rent as most recently determined or redetermined by the HACM.

The owner will be advised that by accepting each monthly housing assistance payment s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.

If requested, the owner must give the HACM information on rents charged by the owner for other units in the premises or elsewhere.

The data for other unassisted units will be gathered from title companies/mail outs to owners.

The market rents for rent reasonableness are census tracts and neighborhoods within the HACM's jurisdiction. Subject units within a defined housing market area will be compared to similar units within the same area.

The following items will be used for rent reasonableness documentation:

- Square Footage
- Number of Bedrooms
- Location
- Number of Bathrooms
- Quality
- Amenities
- Date Built
- Unit Type
- Housing Services
- Utilities

Rent Reasonableness Methodology

The HACM uses an appraisal method and tests the subject unit against selected units in the same area with similar characteristics. Adjustments are made for favorable and unfavorable differences between the subject unit and the comparables.

The HACM maintains an automated database which includes data on unassisted units for use by staff in making rent reasonableness determinations and to identify the rents for units of like size and type within the same market area. The data is updated on an ongoing basis through mailings to local owners, and purged when it is more than 15 months old. Addresses are obtained through disks from a local title company. Comparability of each item listed above will be done by comparing the above items listed for rent reasonable documentation.

D. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM [24 CFR 982.503]

The Payment Standard is used to calculate the housing assistance payment for a family. In accordance with HUD regulation, and at the HACM's discretion, the Voucher Payment Standard amount is set by the HACM between 90 percent and 110 percent of the HUD published FMR. This is considered the basic range. The HACM reviews the appropriateness of the Payment Standard annually when the FMR is published. In determining whether a change is needed, the HACM will ensure that the Payment Standard is within the range of 90 percent to 110 percent of the new FMR, and will take into consideration Expanding Housing Opportunities when reviewing the new FMR's and payment standards.

The HACM will establish a single voucher payment standard amount for each FMR area in the HACM jurisdiction. For each FMR area, the HACM will establish payment standard amounts for each "unit size". The HACM may have a higher payment standard within the HACM's jurisdiction if needed to expand housing opportunities outside areas of minority or poverty concentration, as long as the payment standard is within the 90-110% of FMR range.

The HACM may approve a payment standard of not more than 120% of the FMR without HUD approval, if required as a reasonable accommodation for a family that includes a person with disabilities.

(As per HUD PIH Notice 2013-03 – expires March 31, 2015)

E. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.503]

Payment Standards may be adjusted to increase Housing Assistance Payments in order to keep families' rents affordable. The HACM will not raise the Payment Standards so high that the number of families that can be assisted under available funding is substantially reduced. Nor will the HACM raise Standards if the need is solely to make "high end" units available to Voucher holders. The HACM may use some of all of the measures below in making its determination whether an adjustment should be made to the Payment Standards.

Assisted Families' Rent Burdens

The HACM will review its voucher payment standard amounts at least annually to determine whether more than 40 percent of families in a particular unit size are paying more than 30% of their annual adjusted income for rent.

If it is determined that particular unit sizes in the HACM's jurisdiction have payment standard amounts that are creating rent burdens for families, the HACM will modify its payment standards for those particular unit sizes.

The HACM will increase its payment standard within the basic range for those particular unit sizes to help reduce the percentage of annual income that participant families in the HACM's jurisdiction are paying.

The HACM will establish a separate voucher payment standard, within the basic range, for designated parts of its jurisdiction if it determines that a higher payment standard is needed in these designated areas to provide families with quality housing choices and to give families an opportunity to move outside areas of high poverty and low income.

Quality of Units Selected

The HACM will review the quality of units selected by participant families before determining any change to the Payment Standard to ensure that Payment Standard increases are only made when needed to reach the mid-range of the market.

HACM Decision Point

The HACM will review the average percent of income that families on the program are paying for rent. If more than 40% of families are paying more than 30% of monthly adjusted income for a particular unit size, the HACM will determine whether families are renting units larger than their voucher size, and whether families are renting units which exceed HUD's HQS and any additional standards added by the HACM in this Administrative Plan.

If families are paying more than 30% of their income for rent due to the selection of larger bedroom size units or luxury units, the HAM may decline to increase the payment standard. If these are not the primary factors for families paying higher rents, the HACM will continue increasing the payment standard.

Rent to Owner Increases

The HACM may review a sample of the units to determine how often owners are increasing rents after the first year of the lease and the average percent of increase by bedroom size.

Time to Locate Housing

The HACM may consider the average time period for families to lease up under the Voucher program.

Lowering of the Payment Standard

Lowering of the FMR may require an adjustment of the Payment Standard. Additionally, statistical analysis may reveal that the Payment Standard should be lowered. In any case, the Payment Standard will not be set below 90 percent of the FMR without authorization from HUD.

Financial Feasibility

Before increasing the Payment Standard, the HACM may review the budget and the project reserve, to determine the impact projected subsidy increases would have on funding available for the program and number of families served.

For this purpose, the HACM will compare the number of families who could be served under a higher Payment Standard with the number assisted under current Payment Standards.

File Documentation

A file will be retained by the HACM for at least three years to document the analysis and findings to justify whether or not the Payment Standard was changed.

F. EXCEPTION PAYMENT STANDARDS

If the dwelling unit is located in an exception area, the HACM must use the appropriate payment standard amount established by the HACM for the exception area in accordance with regulation 24 CFR 982.503(c).

G. OWNER PAYMENT IN THE HOUSING CHOICE VOUCHER PROGRAM [24 CFR 982.502(D)]

The owner is required to notify the HACM in writing at least 60 days before any change in the amount of rent to owner is scheduled to go into effect. Any requested change in rent to owner will be subject to rent reasonableness requirements. (See 24 CFR 982.503).

Special Adjustments [24 CFR 982.510]

An owner may request a special adjustment based on substantial and general increases in real property taxes, special government assessments, or costs of utilities. The rent requested must be found to be reasonable and must be approved by HUD.

Disapproval of Requests for Adjustment

If the HACM rejects the owner's request for rent adjustment as exceeding rent reasonableness and the owner rejects the HACM's determination, the owner must give at least a 30-day notice of non-renewal to the family in advance of the renewal date. If both parties agree on a shorter time period of non-renewal notice, that is acceptable as a valid notice of non-renewal. The HACM will issue a new Voucher to the family.

After the tenant has begun searching for a new housing unit, the owner may decide to accept the current lease. If the owner and tenant agree, the lease can continue, as long as it is not past the termination date of the lease.

If a new lease is executed, a new Contract must also be executed, and must be executed under the Housing Choice Voucher Program.

Voucher Rent Adjustments [24 CFR 982.505(b)(3)]

Owners may request rent adjustments in the Voucher program to be effective after the initial term of the lease.

Owners must request all rent increases in writing. The owner must request the increase at least sixty days before the effective date of the rent increase. If the owner fails to do so, the HACM will make the increase effective sixty days from the notification to the HACM of the increase (if rent increase approved by HACM.) See 24 CFR 982.503.

The change in rent does not affect the automatic renewal of the lease and does not require a new lease or contract or even an executed amendment. A notice of rent change will be sent to the owner and the family.

The HACM does not notify owners in regards to requesting a rent adjustment.

H. HOME RENTS [24 CFR 982.209-252]

Owner may give necessary rent increases at any time, but only as applicable to Federal HOME regulations. The owner, however, must give the HACM and the tenant at least 60 day written notice before the rent increase. Rent increases must not exceed rents charged by the owner for comparable unassisted units.

Chapter 12

REEXAMINATIONS

[24 CFR 982.516]

INTRODUCTION

In accordance with HUD requirements, the HACM will reexamine the income and household composition of all families at least annually. Families will be provided accurate annual and interim rent adjustments. Reexaminations and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. All annual activities will be coordinated in accordance with HUD regulation. It is a HUD requirement that families report all changes in household composition. This Chapter defines the HACM's policy for conducting annual reexaminations and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

A. ANNUAL ACTIVITIES [24 CFR 982.516, 982.405]

There are two activities the HACM must conduct on an annual basis.

1. Reexamination of Income and Family Composition
2. HQS Inspection

The HACM produces a monthly listing of units under contract to ensure that timely reviews of contract rent, housing quality, and factors related to Total Tenant Payment can be made.

Anniversary Date: Defined as annual re-examination date.

Reexamination of the family's income and composition must be conducted at least annually.

Annual inspections: See "Housing Quality Standards and Inspections."

Rent Adjustments: See "Owner Rents, Rent Reasonableness and Payment Standards."

B. ANNUAL REEXAMINATION [24 CFR 982.516]

Families are required to be recertified at least annually.

Moves Between Reexaminations

An annual reexamination will be scheduled (unless an annual reexamination has occurred in the last 4 months) and the anniversary date will be changed.

If an annual reexamination has been conducted in the last four months before move, the HACM may simply ascertain whether there has been any change in the last annual or interim reexamination and, if so, obtain third party verification of only the change. The HACM must then use any new verified information together with information from the last annual reexamination to redetermine the family share of rent and the housing assistance payment. New personal declaration forms, authorization forms, and other forms normally signed by family at annual reexamination need not be signed, since forms were signed within the 4-month time period. (SeMap Federal Register/Vol.63, No. 175, September 10, 1998.)

Income limits are not applicable when determining continuing eligibility at re-examination..

Reexamination Notice to the Family (Including HQS Inspection)

The HACM will maintain a reexamination tracking system and the household will be notified by mail of their in home inspection. The letter is mailed at least 15 days before the in home inspection is scheduled, and approximately 3 ½ months in advance of the anniversary date, if the annual re-examination date coincides with the HQS inspection date. (If the annual re-examination date does not coincide with the HQS inspection date, notices for the HQS inspection and re-examination packet are mailed out). If requested as an accommodation by a person with a disability, the HACM will provide the notice in an accessible format. The HACM will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

Procedure

The HACM's procedure for conducting annual reexaminations will be: (If annual date coincides with HQS inspection date)

- Send notification letter to client at least 15 days before scheduled in home inspection notifying client of in-home inspection date.
- The annual re-examination packet will be mailed to client . Instructions are included in the packet along with a deadline for return of the packet.

- If family does not return packet to the Housing Authority, a second notice will be sent for return of packet. If not returned by second notice deadline, termination proceedings will begin. (If re-examination does not coincide with HQS inspection, family must return verification/documentation requested in time period requested by staff. Second notice sent with deadline and if not returned termination proceedings will begin.)
- If family misses in-home inspection, another inspection is rescheduled. If family misses the second scheduled in-home inspection, termination proceedings will begin.

In some instances, families will be required to come into the office to complete an annual re-certification at the discretion of the eligibility specialist.

Completion of Annual Reexamination (If HQS coincides with annual reexamination date)

The HACM will have all reexaminations for families completed before the anniversary date. This includes notifying the family of any changes in increases of their rent at least 30 days before the scheduled date of the change.

The HACM will conduct a streamlined reexamination of income for elderly families and disabled families when 100% of the family's income consists of fixed income. In a streamlined reexamination, HACM will recalculate family income by applying any published cost of living adjustment to the previously verified income amount.

The term "fixed income" includes income from:

1. Social Security Payments to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI):
2. Federal, State, Local, and private pension plans: and
3. Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic receipts that are of a substantially the same amounts from year to year.

(As per HUD PIH Notice 2013-03 – expires March 31, 2015)

Persons with Disabilities

Persons with disabilities who are unable to come to the HACM's office may be granted an accommodation by conducting the interview at the person's home or by mail depending on the circumstances, upon verification that the accommodation requested meets the need presented by the disability.

Collection of Information

The HACM has established appropriate reexamination procedures necessary to ensure that the income data provided by families is complete and accurate.

The HACM allows the family to complete the Personal Declaration Forms and the other reexamination form/forms so that the HACM has information in the family representative's own handwriting.

In the case of disabled participants or the elderly, the HACM representative may assist the family in completing the forms, records the answers, and has the family member initial the answers.

In many cases the HACM will refer those participants who do not speak English, to service agencies in the local area that will assist the families in completing the forms.

Requirements to Attend

The decision as to which family members are required to attend an in house reexamination interview is left to the discretion of the eligibility specialist. The appointment will be rescheduled if the family members who have been required to attend cannot come. If cancelled the second time for failure of family members to come into the office, proceedings will begin to terminate the family.

Failure to Respond to Notification to Recertify

If the family does not appear for the reexamination interview, and has not rescheduled or made prior arrangements with the HACM, the HACM will schedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the HACM will:

- Send family notice of termination and offer them an informal hearing
- Exceptions to these policies may be made by Housing Choice Voucher staff if the family is able to document an emergency situation that prevented them

from canceling or attending the appointment or if requested as a reasonable accommodation for a person with a disability.

Documents Required From the Family

In the eligibility packet to the family, the HACM will include instructions for the family to include the following in the eligibility packet:

- ❑ Documentation of all assets
- ❑ Documentation of any deductions/allowances
- ❑ Personal Declaration Form signed by all adults in household
- ❑ Documentation of income
- ❑ General Authorization Form, Federal Privacy Act Form, Statement of Family Obligations Form, Grounds for Denial or Termination by the Housing Authority Form, and Consent for Criminal Background Check Form. All must be signed by the household adults.
- ❑ Social Security Cards, Birth Certificates and Verification of Legal Non-Citizenship status, if applicable at annual reexamination
- ❑ Childcare Expenses form and Monthly Living Expense Worksheet, if applicable

Verification of Information

The HACM will follow the verification procedures and guidelines described in this Plan. Verifications for reexaminations must be less than 4 months old.

*Note: If family has increase of income that is effective **before** the annual re-examination date, the income will be counted effective the annual re-examination date, regardless of the reporting date by the family. Example: Family has a June 1st annual re-examination date. They report on June 6th, which is within the reporting time period, of the increase in income that was effective before the annual reexamination date. The client will be notified in writing (Form 2) that they have fulfilled their obligation to report change and that change will be effective at their next annual re-examination unless change includes an increase or decrease in family household composition. Changes in family composition will be processed as an interim.*

Tenant Rent Increase

If tenant rent increases, a thirty-day notice is mailed to the family prior to the effective date. (A 60-day notice will be given to the family, if the family's payment standard decreases due to a decrease in family composition.)

If less than thirty days are remaining before the effective date, the tenant rent increase will be effective on the first of the month following the thirty-day notice. (60 day notice for example in above paragraph.)

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the anniversary date, or the HACM and the tenant will enter into a debt repayment agreement, and the tenant will repay the Housing Authority the money owed in rent.

Tenant Rent Decreases

If tenant rent decreases, it will be effective on the first of the month following receipt of proper verification.

If the family causes a delay so that the processing of the reexamination is not complete by the effective date, rent change will be effective on the first day of the month following completion of the reexamination processing by the HACM. No back HAP payments will be issued.

C. REPORTING CHANGES IN INCOME AND FAMILY COMPOSITION [24 CFR 982.516 and 982.516(c)]

Program participants must report all changes in household composition to the HACM at each occurrence. (All FSS clients must report ALL changes, including decrease of income, due to escrow accounts being affected). The family must report the changes within 10 business days to the HACM in writing by completing a change form/packet, which is available at the receptionist desk, or the form/packet can be mailed upon request. If these changes have not been reported in a timely manner, the family may owe back HAP in the form of HAP Repayment claim (Debt repayment), or be terminated from the Program, depending on the circumstances of each case. This includes additions due to birth, adoption and court-ordered custody. The family must obtain HACM approval prior to all other additions to the household.

In the cases where the family is reporting the same family member in and out of the unit on a monthly, or bi-monthly basis, the HACM may have the option to consider the family member as residing in the unit, and schedule the family 90 day re-exam intervals to determine the status of the family composition.

If any new family member is added, family income must include any income of the new family member. The HACM will conduct an interim reexamination to determine such additional income and will make the appropriate adjustments in the housing assistance payment and family unit size.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular reexamination after moving into the unit.

If the non-citizenship category of the family changes due to a member becoming a legal non-citizenship or whatever the circumstances, an annual reexamination interim will be conducted to increase or decrease the rent according to the new family category, even if income and family composition remains unchanged.

Increases in Income

(Families will be required to report all increases in income/assets within 10 business days of the increase.)

The HACM will review all reported increases in total household income. Note: Income increases will be processed as an interim if increase is due to change in family composition.

Effective 2/1/02:

If the HACM has completed an annual reexamination, increases in total household income will be processed accordingly:

- Any reported increases in total annual income will NOT be considered until the next regularly scheduled examination unless there are other changes that must be considered such as: change in number of persons in the household, etc. In those cases, the change will be processed.
- In the cases of Family Self-Sufficiency families, only increases of income due to earned income will be processed as the packets are received.

If family fails to report increase in income as required, the HACM may consider termination and/or recoupment.

Decreases in Income

Participants may report a decrease in income and other changes, which would reduce the amount of tenant rent, such as an increase in allowances or deductions. The HACM must calculate the change if a decrease in income is reported.

HACM Errors

If the HACM makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted to correct the error, if

applicable. The family will not be charged retroactively. Families will be given decreases, when applicable, retroactive to when the decrease for the change would have been effective if calculated correctly.

Increases in Family Size

Increases other than by birth, adoption or court-ordered custody must have the prior approval of the owner and the HACM.

If the addition would result in overcrowding according to HQS maximum occupancy standards:

- The HACM will issue a larger size Voucher and the family will begin proceedings to move to a larger unit by next annual re-examination. If the owner is willing to approve the additional family member/s and the HACM approves the family to remain in the unit, the family's voucher size will not be increased and the family will be allowed to remain in the unit.

Note: The HACM may determine whether to issue a Voucher in this instance based on funding availability. If there is no funding availability, the family will be placed on the Transfer list until subsidy funding becomes available.

D. OTHER INTERIM REPORTING ISSUES

An interim reexamination does not affect the date of the annual reexamination; an interim is conducted for changes in contract rent and/or a change in the family composition and/or income.

A review of a family's income may be scheduled for families with zero income every 30 days.

An interim may be conducted by mail or in house through an interview depending on the discretion of the Eligibility Specialist, or in home or by mail as a reasonable accommodation when requested.

E. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS [24 CFR 5.615]

The HACM will not reduce the family share of rent for families whose welfare assistance is reduced due to a "specified welfare benefit reduction", which is a reduction in benefits by the welfare agency specifically because of:

fraud in connection with the welfare program; or

noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

However, the HACM will reduce the rent if the welfare assistance reduction is a result of:

The expiration of a lifetime time limit on receiving benefits; or

A situation where the family has complied with welfare program requirements but cannot or has not obtained employment; or

A situation where a family member has not complied with other welfare agency requirements.

Definition of Covered Family

A household that receives benefits for welfare or public assistance from a State or public agency program which requires, as a condition of eligibility to receive assistance, the participation of a family member in an economic self-sufficiency program.

Definition of "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 included in the family's income for purposes of determining rent.

The amount of imputed welfare income is determined by the HACM, based on written information supplied to the HACM by the welfare agency, including:

The amount of the benefit reduction

The term of the benefit reduction

The reason for the reduction

Subsequent changes in the term or amount of the benefit reduction

The family's annual income will include the imputed welfare income, as determined at the family's annual or interim re-examination, during the term of welfare benefits reduction (as specified by the welfare agency).

The amount of imputed welfare income will be offset by the amount of additional income the family receives that commences after the sanction was imposed. When additional income from other sources is at least equal to the imputed welfare income, the imputed welfare income will be reduced to zero.

If the family was not an assisted client when the welfare sanction began, imputed welfare income will not be included in annual income.

If the family claims the amount of imputed welfare income has been calculated incorrectly, the HACM will review the calculation for accuracy. If the imputed welfare income amount is correct, the HACM will provide a written notice to the family that includes:

A brief explanation of how the amount of imputed welfare income was determined;

A statement that the family may request an informal hearing if they do not agree with the HACM determination.

Verification Before Denying a Request to Reduce Rent

The HACM will obtain written verification from the welfare agency stating that the family's benefits have been reduced due to fraud or noncompliance with welfare agency economic self-sufficiency or work activities requirements *before* denying the family's request for rent reduction.

Cooperation Agreements [24 CFR 5.613]

The HACM and the local welfare agency have mutually agreed to exchange information regarding any economic self-sufficiency and/or other appropriate programs or services that would benefit Housing Choice Voucher tenant-based assistance families.

The HACM has executed a Memorandum of Understanding with the local welfare agency to ensure timely and accurate verification of noncompliance.

Family Dispute of Amount of Imputed Welfare Income

If the family disputes the amount of imputed income and the HACM denies the family's request to modify the amount, the HACM will provide the tenant with a notice of denial, which will include:

An explanation for the HACM's determination of the amount of imputed welfare income

A statement that the tenant may request an informal hearing

F. NOTIFICATION OF RESULTS OF REEXAMINATIONS [HUD Notice PIH 98-6]

The HUD form 50058 will be completed and transmitted as required by HUD.

The Notice of Rent Change is mailed to the owner and the tenant. Signatures are not required by the HACM on the Notice of Rent Change. If the family disagrees with the rent adjustment, they may request an informal hearing as stated on the bottom of the Notice of Rent Change.

G. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS) [24 CFR 982.516(c)]

Standard for Timely Reporting of Changes

The HACM requires that families report changes (in writing) in the family composition and/or income to the HACM within 10 business days of when the change occurs. Any information, document or signature needed from the family, which is needed to verify the change, must be provided upon request by the Housing Authority.

If the change is not reported (in writing) within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

Procedures when the Change is Reported in a Timely Manner

The HACM will notify the family and the owner of any change in the Housing Assistance Payment to be effective according to the following guidelines:

Increases in the Tenant Rent are effective on the first of the month following at least thirty days' notice. (Except for payment standard decrease due to family composition decrease, then a 60 day notice will be given by the HACM to the family.)

Decreases in the Tenant Rent are effective the first of the month following that in which the change is reported. However, no rent reductions will be processed until all the facts have been verified, and no back HAP will be issued.

The change will not be made until the third party verification is received.

If the change is reported in a timely manner at the end of the month during the time period that rent roll is closed and it would result in a decrease of the tenant rent, the Housing Authority will make every effort to collect third party verification as quickly as possible in order to process the interim on the 1st of the following month. If, however, third party verification is inaccessible, or the tenant has made no effort in providing the proper verification, the interim will take effect the month after.

Procedures when the Change is Not Reported by the Tenant in a Timely Manner

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim processing and the following guidelines will apply:

Increase in Tenant Rent will be effective on the first day of the month that change would have been effective had the change been reported on a timely basis. The family will be liable for any overpaid housing assistance and will be required to repay the HACM and sign a repayment agreement. In some instances depending on the circumstances, the family may be terminated from the program.

Decrease in Tenant Rent will be effective on the first of the month following the month that the change was reported. (This also applies to family's who report at the end of the month in an untimely manner.

Procedures when the Change is Not Processed by the HACM in a Timely Manner

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be

made effective on that date, the change is not processed by the HACM in a timely manner.

In this case, an increase will be effective after the required thirty days' notice prior to the first of the month after completion of processing by the HACM.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

H. CHANGES IN VOUCHER SIZE AS A RESULT OF FAMILY COMPOSITION CHANGES [24 CFR 982.516(c)]

(See "Subsidy Standards" chapter.)

I. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.518]

Under the Noncitizens Rule, "Mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

"Mixed" families who were participants as of June 19, 1995, shall continue receiving full assistance if they meet all of the following criteria:

1. The HACM implemented the Non-Citizen Rule prior to November 29, 1996 AND
2. The head of household or spouse is a U.S. citizen or has eligible immigrant status; AND
3. All members of the family other than the head, the spouse, parents of the head or the spouse, and children of the head or spouse are citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

After November 29, 1996, for any new admissions or for families who categories change due to the admittance of a new family member, mixed families may receive prorated assistance only.

J. MISREPRESENTATION OF FAMILY CIRCUMSTANCES

If any participant misrepresents the information on which eligibility or tenant rent is established, the HACM may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition.

Chapter 13

MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

[24 CFR 982.314]

INTRODUCTION

HUD regulations permit families to move with continued assistance to another unit within the HACM's jurisdiction, or to a unit outside of the HACM's jurisdiction under Portability procedures. The regulations also allow the HACM the discretion to develop policies, which define any limitations or restrictions on moves. This Chapter defines the procedures for moves, both within and outside of, the HACM's jurisdiction, and the policies for restriction and limitations on moves.

A. ALLOWABLE MOVES

A family may move to a new unit with continued assistance if:

The assisted lease for the old unit has terminated because the HACM has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.

The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).

The family has given proper notice of lease termination (if the family has a right to terminate the lease on notice to owner) for owner breach or otherwise.

The family has given proper notice of lease termination, and the move is needed to protect a victim who is covered under the Violence Against Women Act of 2005, subject to the victim providing the necessary documentation required of victims of this act, as described in the verification chapter of this plan.

B. RESTRICTIONS ON MOVES [24 CFR 982.314, 982.552(a)]

In-Place Preference families will not be permitted to move within the HACM's jurisdiction or outside the HACM's jurisdiction during the first year of their participation in the Housing Choice Voucher Program.

Families will not be permitted to move within the HACM's jurisdiction during the initial year of assisted occupancy.

Families will not be permitted to move outside the HACM's jurisdiction under portability procedures during the initial year of assisted occupancy.

Families will not be permitted to move more than once in a 12-month period.

The HACM will deny permission to move if there is insufficient funding for continued assistance.

The Eligibility Specialist may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control.

(See Administrative Plan Chapters on the Family Self-Sufficiency Program, Family Unification Program, and [Independent Living Program](#) for further restrictions that may apply to these targeted programs.)

The HACM may deny permission to move to if:

- ❑ The family has violated a Family Obligation, Grounds for Termination, or has violated any rules and regulations under the Housing Choice Voucher Program.
- ❑ The family owes the HACM money.
- ❑ The family violates any policies and procedures set forth in this Administrative Plan.
- ❑ If the HACM determines that no subsidy would be paid at the new unit, the HACM will not enter into a HAP contract on behalf of the family.

C. PROCEDURE FOR MOVES [24 CFR 982.314]

Issuance of Housing Choice Voucher

Subject to the restrictions on moves, the HACM will issue the voucher to move after receiving the proper Intent to Vacate Notice signed by the owner and the tenant

If the family does not locate a new unit, they may remain in the current unit so long as the owner permits. (However, if a Voucher family and the HACM requested the family move to a larger unit, the contract and lease will be terminated on the day the family requested to move in the Intent to Vacate Notice.)

If the Voucher family was moving to a smaller unit the same applies; however, the HACM will decrease the payment standard to the correct subsidy amount upon 30-day notice to the family.

The annual recertification date will be changed to coincide with the new lease-up date.

Notice Requirements

Briefing sessions emphasize the family's responsibility to give the owner and the HACM proper written notice of any intent to move.

The family must give the owner the required number of days written notice of intent to vacate specified in the lease and must give a copy to the HACM simultaneously.

Time of Contract Change

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move except that there will be no overlapping assistance.

In a move, assistance stops at the old unit effective the date of cancellation on the Intent to Vacate Notice. Assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves.

D. PORTABILITY [24 CFR 982.353]

Portability applies to families moving out of or into the HACM's jurisdiction within the United States and its territories.

E. OUTGOING PORTABILITY [24 CFR 982.353, 982.355]

Within the limitations of the regulations and this policy, a participant family has the right to receive tenant-based voucher assistance to lease a unit outside the HACM's jurisdiction, anywhere in the United States, in the jurisdiction of a PHA with a tenant based program.

When a family requests to move to outside of the HACM's jurisdiction, the request must specify the area to which the family wants to move. The HACM will assist the family in contacting the Housing Agency responsible for the specific area in which the family wishes to move.

If there is more than one PHA in the area in which the family has selected a unit, the HACM will choose the receiving PHA.

Restrictions on Portability

Applicants

Families will not be permitted to exercise portability during the initial 12-month period after admission to the program.

Upon initial issuance of a voucher the family must be income eligible under the receiving PHA income limits.

The HACM will deny permission to move if there is insufficient funding for continued assistance

Participants

The HACM will not permit families to exercise portability:

If the family is in violation of a family obligation.

If the family owes money to the HACM.

If the family wants to move more than once within a year.

If the family is restricted per this Administrative Plan, such as Welfare to Work, and other programs.

The HACM will deny permission to move if there is insufficient funding for continued assistance

Receiving PHA's will be required to submit hearing determinations to the HACM within 15 calendar days from the date of the hearing.

F. INCOMING PORTABILITY [24 CFR 982.354, 982.355]

Absorption or Administration

The HACM will accept a family with a valid Voucher from another jurisdiction and administer or absorb the Voucher. If administering, the family will be issued a "Portability" Voucher by the HACM with the same start date. The HACM may grant extensions in accordance with this Administrative Plan. (Not over 180 days issuance, including the initial PHA's voucher issuance date.)(Not over 180 days issuance, including the initial PHA's voucher issuance date.) The family must submit a Request for Approval of Tenancy for an eligible unit to the HACM during the term of the HACM's voucher. However, if the Family decides not to lease-up in the HACM's jurisdiction, they must contact the initial PHA to request an extension.

| The HACM will absorb all port-in families provided, that there is funding available.

When the HACM does not absorb the incoming Voucher, it will administer the Initial PHA's Voucher and the HACM's policies will prevail.

For admission to the program, a family must be income eligible in the area where the family initially leases a unit with assistance under the program.

The HACM does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA Housing Choice Voucher tenant-based program.

The HACM will issue a "Portability Voucher" according to its own Subsidy Standards. If the Family has a change in family composition which would change the Voucher size, the HACM will change to the proper size based on its own Subsidy Standards.

Income and TTP of Incoming Portables [24 CFR 982.353(d)]

As receiving PHA, the HACM will conduct a recertification interview but only verify the information provided if the documents are missing or are over 120 days old, whichever is applicable, or there has been a change in the family's circumstances.

If the HACM conducts a recertification of the family, it will not cause a delay in the issuance of a voucher.

If the family's income is such that a \$0 subsidy amount is determined prior to lease-up in the HACM's jurisdiction, the HACM will refuse to enter into a contract on behalf of the family at \$0 assistance.

Requests for Approval of Tenancy

A briefing will be mandatory for all portability families.

When the Family submits a Request for Approval of Tenancy, it will be processed using the HACM's policies. If the Family does not submit a Request for Approval of Tenancy or does not execute a lease, the Initial PHA will be notified within 21 days by the HACM.

If the Family leases up successfully, the HACM will notify the Initial PHA within 10 days of the execution of the contract, and the billing process will commence.

If the HACM denies assistance to the family, the HACM will notify the Initial PHA within 21 days and the family will be offered a review or hearing.

The HACM will notify the Family of its responsibility to contact the Initial PHA if the Family wishes to move outside the HACM's jurisdiction under continued portability.

Regular Program Functions

The HACM will perform all program functions applicable to the tenant-based program, such as:

- Annual reexaminations of family income and composition;
- Annual inspection of the unit; and
- Interim Examinations when requested or deemed necessary by the HACM

Terminations

The HACM will notify the Initial PHA in writing of any termination of assistance within 10 days of the termination date. If an Informal Hearing is required and requested by the Family, the hearing will be conducted by HACM, using the regular hearing procedures included in this Plan. A copy of the hearing decision will be furnished to the Initial PHA.

The Initial PHA will be responsible for collecting amounts owed by the Family for claims paid and for monitoring repayment. If the Initial PHA notifies the HACM that the Family is in arrears or the Family has refused to sign a Payment Agreement, the HACM will terminate assistance to the family.

Required Documents

As Receiving HACM, the HACM will require the documents listed on the HUD Portability Billing Form from the Initial PHA.

Billing Procedures

As Receiving PHA, the HACM will bill the Initial PHA monthly for Housing Assistance Payments. The billing cycle for other amounts, including Administrative Fees and Special Claims, will be every 10 days after submission to the Financial Department.

The HACM will bill 100% of the Housing Assistance Payment, 100% of Special Claims and 80% of the Administrative Fee (at the Initial HACM's rate) for each "Portability" Voucher leased as of the first day of the month.

The HACM will notify the Initial PHA of changes in subsidy amounts and will expect the Initial PHA to notify the HACM of changes in the Administrative Fee amount to be billed.

Chapter 14

CONTRACT TERMINATIONS

[24 CFR 982.311,982.314]

INTRODUCTION

The Housing Assistance Payments (HAP) Contract is the contract between the owner and the HACM, which defines the responsibilities of both parties. This Chapter describes the circumstances under which the contract can be terminated by the HACM and the owner, and the policies and procedures for such terminations.

A. CONTRACT TERMINATION [24 CFR 982.311]

The term of the HAP Contract is the same as the term of the lease. The Contract between the owner and the HACM may be terminated by the HACM or by the owner or tenant terminating the lease.

No future subsidy payments on behalf of the family will be made by the HACM to the owner after the month in which the Contract is terminated unless the owner has initiated an eviction process (written notice to the family) prior to the date the contract is terminated. The owner must reimburse the HACM for any subsidies paid by the HACM for any period after the contract termination date and/or eviction date.

If the family continues to occupy the unit after the Housing Choice Voucher contract is terminated, the family is responsible for the total amount of rent due to the owner. The owner will have no right to claim compensation from the HACM for vacancy loss under the provisions of Certificate HAP contracts effective after October 2, 1995. (Implemented October 23, 1995 by this HACM)

After a contract termination, if the family meets the criteria for a move with continued assistance, the family may lease-up in another unit.

B. TERMINATION BY THE FAMILY: MOVES [24 CFR 982.314(c)(2)]

Family termination of the lease must be in accordance with the terms of the lease.

If the family submits a 30-day written notice of their intent to vacate the unit, the contract/lease will terminate on the 30th day. If the family remains in the unit past that date, no subsidy will be issued for those days. The entire rent portion is the family's obligation if the family remains in the unit past the 30 days. (The exception to this is if the owner has submitted an eviction prior to the termination of the contract/lease.)

C. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS

[24 CFR 982.310, 982.455]

If the owner wishes to terminate the lease, the owner is required under the lease, to provide proper notice as stated in the lease.

During the term of the lease, the owner may not terminate the tenancy except for the grounds stated in the HUD regulations.

If the owner wishes to terminate the lease on the anniversary (term) date, the owner may do so without showing cause or other good cause-

During the term of the lease, if the owner wishes to terminate the lease, the owner is required to evict, using the notice procedures in the HUD regulations and State/local law. The owner must provide the HACM with a copy of the eviction notice within 10 calendar days. The owner must provide the tenant a written notice specifying the grounds for termination of tenancy, at or before the commencement of the eviction action. The notice may be included in, or may be combined with, any owner eviction notice to the tenant.

The 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.

During the term of the lease, or any successive term of the lease, the owner may only evict for:

1. Serious violation (including but not limited to failure to pay rent or other amounts due under the lease) or repeated violations of the terms and conditions of the lease;
2. Violations of federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the unit and the premises;
3. Other good cause
4. Criminal activity or alcohol abuse: The owner may terminate the tenancy during the term of the lease if any member of the household, a guest or another person under a resident's control commits any of the following types of criminal activity:

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 or, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;

Any violent criminal activity on or near the premises; or

Any drug-related criminal activity on or near the premises.

5. The owner may terminate the tenancy during the term of the lease if any member of the household is:

Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees; or

Violating a condition of probation or parole under Federal or State law.

6. The owner may terminate the 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.

7. The owner may terminate the tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety or right to peaceful enjoyment of the premises by other residents.

During initial term of the lease, 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 (see 982.310).

During the initial lease term or during any extension term, other good cause includes, but is not limited to:

Disturbance of neighbors,

Destruction of property, or

Living or housekeeping habits that cause damage to the unit or premises

After the initial lease term, such good cause includes, but is not limited to:

The tenant’s failure to accept the owner’s 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 use as a residential rental unit; or

A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, the owner's desire to rent the unit for a higher rent).

The eviction notice must specify the cause for the eviction.

The HACM requires that the owner specify the section of the lease that has been violated and cite the ways in which the tenant has violated that section as documentation for the HACM's decision regarding termination of assistance.

Housing assistance payments are paid to the owner under the terms of the HAP Contract. If the owner has begun eviction and the family continues to reside in the unit, the HACM 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.

The HACM will continue housing assistance payments until the family moves or is evicted from the unit, whichever comes first. The HACM may, in some instances, continue the housing assistance payments until the end of the month.

If the action is finalized in court, the owner must provide the HACM with the documentation, including notice of the lockout date.

The HACM must continue making housing assistance payments to the owner in accordance with the Contract as long as the tenant continues to occupy the unit and the Contract/lease is not violated. By endorsing the monthly check from the HACM, the owner certifies that the tenant is still in the unit, the rent is reasonable and s/he is in compliance with the contract.

However, the HACM will not continue to make payments when the owner has issued a non-renewal of the lease or terminated the lease, even if the tenant remains in the unit past the non-renewal termination date.

If an eviction is not due to a serious or repeated violation of the lease, and if the HACM has no other grounds for termination of assistance, the HACM may issue a new voucher so that the family can move with continued assistance.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity:

Regardless of arrest or conviction

Without satisfying the standard of proof used for a criminal conviction

Actions of termination by the owner must be consistent with the fair housing and equal opportunities as stated in 24 CFR 5.105.

D. TERMINATION OF THE CONTRACT BY HACM

[24 CFR 982.404(a), 982.453, 982.454, 982.552(a)(3)]

The term of the HAP contract terminates when the lease terminates, when the HACM terminates program assistance for the family, and when the owner has breached the HAP contract. (See also "Owner Disapproval and Restriction" chapter for further reasons of HAP Contract terminations by HACM)

The HACM may also terminate the contract if:

The HACM terminates assistance to the family.

The family is required to move from a unit when the unit does not meet the HQS space standards because of a change in the family composition. (See Subsidy Standard Chapter). The HACM, because of lack of housing units, will approve the family to remain in the unit as long as the family is aware of the bedroom size unit that they do qualify for and a statement to this fact is inserted in the family's file.)

The contract will terminate automatically if 180 days have passed since the last housing assistance payment to the owner.

Notice of Termination

When the HACM terminates the HAP contract under the violation of HQS space standards, the HACM will provide the owner and family written notice of termination of the contract. In the case of 24-hour Housing Quality Standard violations, which are the responsibility of the family or owner, the contract will be terminated in 24 hours.

The other exceptions is, of course, if the family moves without notice from the unit, or the sole member of the family becomes deceased, or the family has been absent from the unit, and the owner has not notified or was not aware of the absence.

E. TERMINATION OF CONTRACTS DUE TO INSUFFICIENT FUNDING (24 CFR 982.454)

The HACM may terminate HAP contracts in accordance with HUD requirements, if the PHA determines that "funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

HACM will protect the following families from cancellation. These tenants may be required to pay more in rent due to other measures, but the household will not lose their voucher.

Elderly or disabled Voucher holders – HACM will not cancel Vouchers for a household headed by a person who is either 62 years of age or older or who is receiving SSD/SSi. These household are particularly vulnerable because they have little prospect of ever increasing their income.

Relocation Vouchers – HACM will not cancel or delay any vouchers used to fulfill its legal obligation to relocated households that it has displaced by its own redevelopment activities.

F. PAYMENTS TO OWNER WHEN FAMILY MOVES

The HACM will not make payments to the owner after the family has moved out of the unit, except if:

- The family moves before the cancellation date indicated on the Intent to Vacate Notice to the owner. The HACM will pay the owner up to the cancellation date indicated on the notice.
- If the family abandons the unit, it is the obligation of the owner to advise the HACM immediately. The owner keeps the full HAP until the end of the month in which the family “skips”.
- If the HACM has taken termination action against the family in the same month, and the termination date is before the end of the month, the HAP will end on the termination date of the family. The owner must have received at least a 30-day written notice of the termination from the HACM.
- If the sole member of the family becomes deceased, it is the obligation of the owner to advise the HACM immediately. The HACM will stop payment to the owner at the end of the month of the occurrence of death. If the occurrence of death occurred within the last five days of the month and the owner still has not taken possession of the unit, the HACM may continue to make subsidy payments until the owner takes possession or the until the 15th of the following month, whichever comes first.
- If the family is being evicted from the unit, the HACM will continue to make payments to the owner (unless the unit is below Housing Quality Standards). The HACM will continue to make payments until the family moves from the unit, or the family is evicted, whichever comes first.

- If the family has not “skipped” from the unit, but has been absent from the unit more than 60 days, the HACM can terminate the contract immediately. The HACM will make every effort to notify the owner in advance.

The Housing Authority will not overlap subsidy on two units, unless approved in special circumstances by the Housing Choice Voucher Director.

G. TERMINATIONS DUE TO INELIGIBLE IMMIGRATION STATUS

[24 CFR 5.514]

Families who were participants on June 19, 1995, but are ineligible for continued assistance due to the ineligible immigration status of all members of the family, or because a "mixed" family chooses not to accept proration of assistance, are eligible for temporary deferral of termination of assistance if necessary to permit the family additional time for transition to affordable housing.

Deferrals may be granted for intervals not to exceed six months, up to an aggregate maximum of:

3 years for deferrals granted prior to 11/29/96, or
18 months for deferrals granted after 11/29/96

The family will be notified in writing at least 60 days in advance of the expiration of the deferral period that termination of assistance will not be deferred because:

- a) Granting another deferral will result in an aggregate deferral period of longer than the statutory maximum (three years for deferrals granted before 11/29/96; 18 months for deferrals granted after 11/29/96), or
- b) A determination has been made that other affordable housing is available.

Chapter 15

DENIAL OR TERMINATION OF ASSISTANCE

INTRODUCTION

The HACM may deny or terminate assistance for a family because of the family's action or failure to act. The HACM will provide families with a written description of the Family Obligations under the program, the grounds under which the HACM can deny or terminate assistance, and the HACM's informal review/hearing procedures. This Chapter describes when the HACM is required to deny or terminate assistance, and the HACM's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP contract.

A. TYPES OF DENIAL/TERMINATION {24 CFR 982.552, 982.553}

If denial or termination is based upon behavior resulting from a disability, the HACM will delay the denial/termination in order to determine if there is an accommodation which would negate the behavior resulting from the disability.

Form of Denial/Termination

Denial of assistance for an applicant may include any or all of the following:

- Denial for placement on the HACM 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

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

Mandatory Denial and Termination {24 CFR 982552(b), 982.553}

The HACM must deny assistance to applicants, and terminate assistance for participants:

If any member of the family fails to sign and submit HUD or HACM required consent forms for obtaining information.

If no member of the family is a U.S. citizen or eligible immigrant.

If the family is under contract and 180 days have elapsed since the HACM's last housing assistance payment was made.

If the family is evicted from housing assisted under the program for serious violation of the lease.

If any household member is subject to a lifetime registration requirement under a State sex offender registration program

If any household member has been convicted of manufacturing or producing methamphetamine.

If a student applying for or participating in the HCV Program separately from his/her parents, is a student enrolled in an institution of higher education AND is under the age of 24, not a veteran, unmarried, and does not have any dependent children, the student will be denied (if an applicant) or terminated (if a current HCV participant) if his/her income, with his/her parent's joint income do not meet the income requirements for admission to the HCV Program.

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

Grounds for Denial of Assistance [24 CFR 982.552]

- *Note: The family may be permanently prohibited from admission to the Housing Choice Voucher Program if they were previous participants in the Program or any federally assisted housing and were terminated for any reason. An exception may be granted by the HACM, based on all the information presented, on a case-by-case basis*

- The Family must have not have violated any family obligation during a previous participation in the Housing Choice Voucher Program. [24 CFR 982.551]
- If any member of the family has ever been evicted from federally assisted housing.
- If a Housing Authority has ever terminated assistance under the Certificate or Voucher Program for any member of the family.
- The Family must have paid any outstanding debts owed the HACM or other housing authority or amounts paid to the owner by a housing authority as a result of prior participation in any federal housing program. The family will be required to pay the balance in full prior to final eligibility determination, but not before being placed on the waiting list. If the debt is not paid in the designated time period set by the HACM during the eligibility process, the application will be withdrawn. The family must submit a new application. In no case will the debt be forgiven.
- If any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- If any family member has engaged in or threatened abusive or violent behavior towards Housing Authority personnel.

Abusive or violent behavior towards Housing Authority personnel includes, but is not limited to, verbal as well physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult, harass, or intimidate, may be cause for termination or denial.

Threatening, includes but is not limited to, oral or written threats or suggestions, or physical gestures that communicate intent to abuse or commit violence.

Actual physical abuse or violence will always be cause for termination.

- The family's action or failure to act.
- If any member of the family fails to sign and submit consent forms for obtaining information.
- If any member of the family does not submit required evidence of citizenship or eligibility immigration status, or if there is no eligible member of the family.
- If any household member is currently or has engaged in drug related criminal activity or violent criminal activity within a minimum of the past *five years* from the date of occurrence. HACM may consider extenuating circumstances in appropriate cases. (Minimum five-year time period is only for new admissions and does not pertain to family members who were terminated from the program due to drug related or

violent criminal activity, or other criminal activity. That may be a permanent prohibited admission to the program.)

- If any household member is currently engaged in or has engaged in other criminal activity which may threaten the health or safety of the premises by, other residents, or persons residing in the immediate vicinity or which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the HACM, including a HACM employee, contract or subcontractor or agent.
- If any household member is subject to a lifetime registration requirement under a State sex offender registration program, they are permanently prohibited from admission to the Housing Choice Voucher Program.
- If any household member has been convicted of manufacturing or producing methamphetamine in a building or complex assisted under the public housing or Housing Choice Voucher Programs, they are permanently prohibited admission to the Housing Choice Voucher Program.
- If any household member has an abuse or pattern of abuse of alcohol that may adversely affect the health or safety of, or the right to peaceful enjoyment of the premises by, other residents and persons residing in the immediate vicinity of the premises or if the HACM believes it has reasonable cause to believe the family member has in the past (minimum) *five years* a criminal record that substantiates the pattern of abuse of alcohol.
- If any household member is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees or violating a condition of probation or parole imposed under Federal or State law, provided owner evicts on this basis.

The HACM **may** waive the minimum *five-year time period requirement* for drug related or violent criminal activity or other criminal activity if:

- The circumstances leading to the eviction or termination no longer exist. For example, the individual involved in drugs is no longer in the household because the person is incarcerated; or
- If the person engaging in the activity has successfully completed a supervised drug or alcohol rehabilitation program; or
- Has otherwise been rehabilitated successfully; or
- Is participating in a supervised drug or alcohol rehabilitation program.
- If the violating member is a minor, the HACM may consider individual circumstances with the advice of the Juvenile Court officials.

Grounds for Termination of Assistance [24 CFR 982.552(a)(1); 982.552(c)(1)(i-ix)]

- The family is under contract and 180 days (or 12 months, depending on the HAP contract used) have elapsed since the HACM's last housing assistance payment was made.
- The family violates any family obligation under the program as listed in 24 CFR 982.551.
- Any member of the family has ever been evicted from federally assisted housing.
- If a housing authority has ever terminated assistance under the Certificate or Voucher program for any member of the family.
- If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- The family currently owes rent or other amounts to the HACM or to another housing authority in connection with Housing Choice Voucher or public housing assistance under the 1937 Act.
- The family has not reimbursed any housing authority 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, including a HAP repayment to a housing authority for underreporting income or other circumstances.
- The family breaches an agreement with a housing authority to pay amounts owed to a housing authority, or amounts paid to an owner by a housing authority.
- The family has engaged in or threatened abusive or violent behavior toward HACM personnel. (See definitions under Denial of Assistance listed above)
- Participants will be permanently terminated if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program.
- Family fails to provide evidence of citizenship or eligible immigration status.
- There is no eligible family member under the non-citizenship rule and the time-period has elapsed of 18 months.
- Any member of the family fails to sign and submit consent forms.
- If the Family fails to comply with the Welfare to Work Program.

- If any member of the family commits drug-related criminal activity, or violent criminal activity.
- 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. (Permanently prohibited from admission to any federally assisted program)
- If any household member is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, provided owner evicts on this basis.
- If any household member violates a condition of probation or parole imposed under Federal or State law, provided owner evicts on this basis.
- If any household member is currently or has engaged in other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the residents and persons residing in the immediate vicinity of the premises or which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the HACM, including a HACM employee, contract or subcontractor or agent.
- If any household member abuses 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 or if the HACM believes it has reasonable cause to believe the family member has in the past five years a criminal record that substantiates the pattern of abuse of alcohol.
- If any household is evicted from housing assisted under the program for serious violation of the lease.
- 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, they are terminated and permanently denied admission to the program.
- If any family member has engaged in or threatened abusive or violent behavior towards Housing Authority personnel.

Abusive or violent behavior towards Housing Authority personnel includes, but is not limited to, verbal as well physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other

language, written or oral, that is customarily used to insult, harass, or intimidate, may be cause for termination or denial.

Threatening includes but is not limited to, oral or written threats or suggestions, or physical gestures that communicate intent to abuse or commit violence.

Actual physical abuse or violence will always be cause for termination.

The HACM may take into consideration the following factors in deciding whether to terminate a participant in the program due to drugs, alcohol, or criminal activity if:

- The circumstances leading to the eviction or termination no longer exist. For example, the individual involved in drugs is no longer in the household because the person is incarcerated; or
- If the person engaging in the activity has successfully completed a supervised drug or alcohol rehabilitation program; or
- Has otherwise been rehabilitated successfully; or
- Is participating in a supervised drug or alcohol rehabilitation program.
- If the violating member is a minor, the HACM may consider individual circumstances with the advice of Juvenile Court officials.

In denying or terminating assistance, the HACM may terminate assistance for drug-related, violent, or other criminal activity by a household member under this section if the HACM has determined that the household member has engaged in the criminal activity, regardless of whether the household member has been arrested or convicted for such activity.

Families with drug related or criminal activity older than five years will be considered on a case-by-case basis for admission and termination of assistance.

B. PURPOSE AND POLICY

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize and/or harass neighbors. It is the intention of the Housing Authority of the County of Merced to fully endorse and implement a policy, which is designed to:

Help create and maintain a safe and drug-free community

Keep our program participants free from threats to their personal and family safety

Support parental efforts to instill values of personal responsibility and hard work

Help maintain an environment where children can live safely, learn and grow up to be productive citizens

Assist families in their vocational/educational goals in the pursuit of self-sufficiency

Administration

All screening and termination procedures shall be administered fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, religion, sex, national origin, age, familial or marital status, disability, sexual orientation and gender identity.

To the maximum extent possible, the HACM will involve other community and governmental entities in the promotion and enforcement of this policy.

The fact that an applicant or tenant was arrested for a disqualifying offense shall not be treated or regarded as proof that the applicant or tenant engaged in disqualifying criminal activity. The arrest may, however, trigger an investigation to determine whether the applicant or tenant actually engaged in disqualifying criminal activity. As part of its investigation, HACM may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The HACM may also consider any statements made by witnesses or the applicant or tenant 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; and any other evidence relevant to determine whether or not the applicant or tenant engaged in disqualifying activity.

Screening of Applicants

In an effort to prevent future drug related, violent and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by the Notice 96-27, the HACM will endeavor to screen applicants as thoroughly and fairly as possible.

Such screening of new admissions will apply to any member of the household who is 18 years of age or older or who is an emancipated minor, including a live-in aide. Criminal background checks will also be conducted on any adult being added to a participant's family composition, including a live-in aide.

All adult members of families porting into the HACM's jurisdiction will be screened for criminal background history.

Any violations as stated in the above paragraphs will be grounds for termination/denial of admission.

HUD Definitions

Covered person, for purposes of 24 CFR Part 982 and this chapter, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.

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 the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute or use a controlled substance. Drug-related criminal activity means *on or off the premises, not just on or near the premises*.

“Premises” is defined as the building or complex in which the dwelling unit is located, including common areas and grounds. (Federal Register 2/18/99-QHWRA Initial Guidance)

Guest, for purposes of this chapter and 24 CFR Part 5, subpart A and 24 CFR Part 982, means a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. The requirements of part 982 apply to a guest so defined.

Household, for the purposes of 24 CFR Part 982 and this chapter, means the family and PHA-approved live-in aide.

Other person under the tenant's control, for the purposes of the definition of *covered person* and for 24 CFR Parts 5 and 982 and for this chapter, means that the person, although not staying as a guest (as defined in this chapter) in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not *under the tenant's control*.

Violent criminal activity includes any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property, and the activity is being engaged in by any family member, which could include a live-in aide.

Other criminal activity includes criminal activity, which may threaten the health or safety of the owner, property management staff, HACM employee, residents of the premises, or persons residing in the immediate vicinity of the premises.

Standard for Violation

The HACM will deny participation in the program to applicants and terminate assistance to participants in cases where the HACM determines there is reasonable cause to believe that the person (person also can include a live-in aide) is either illegally using a controlled substance, or if the person abuses/abused alcohol, or engages/engaged in violent criminal activity, or commits/committed any other criminal activity that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises), or by persons residing in the immediate vicinity of the premises.

“Engaged in or engaging in” violent criminal activity means any act by applicants or participants, household members, or guests which involves criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person of another, which did or did not result in the arrest and/or conviction of the applicant or participant, household members, guests, or live-in aide.

Under the Violence Against Women Act of 2005 (VAWA) statutes, the abusers criminal activity directly related to abuse and beyond control of the victim shall not be grounds for termination. The amendments clarify that the HACM may terminate a VAWA victim if the individual is an actual and imminent threat to other tenants or community. Also if the victim is evicted for unrelated criminal activity, this may be grounds for termination of the HCV assistance, provided the HACM does not hold the victim to a more demanding standard than other program participants. In more general terms, nothing prevents a victim who has committed a crime or violated a lease from being terminated from the HCV Program.

Housing Authority Discretion

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the HACM has discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, the length of time since the violation occurred and more recent record of compliance, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.

The HACM may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The HACM may permit the other members of a family to continue in the program.

Notice of Termination of Assistance

In any case where the HACM decides to terminate assistance to the family, the HACM must give the family written notice which states: The reason(s) for the proposed termination,

The effective date of the proposed termination,

The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance.

The date by which a request for an informal hearing must be received by the HACM.

The HACM will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The Notice to the owner will not include any details regarding the reason for termination of assistance.

Required Evidence

Preponderance of 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. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence. The HACM may deny or terminate assistance if the preponderance of evidence indicates that a family member has engaged in such activity, regardless of whether the family member has been arrested or convicted.

Credible evidence may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants.

- The HACM may pursue fact-finding efforts as needed to obtain credible evidence; however, the HACM may deny or terminate assistance based only on preponderance of evidence as stated above.

Domicile (Primary Residence/Legal Residence)

Domicile is defined as a family's legal place of residence. It is the location where an individual or individuals claim their residence of first choice and spend a significant amount of their time residing at that location and caring about their affairs through that location. Domicile may be established by at least two of the following documents:

1. An individual receiving correspondence at that address;
2. An individual having a vehicle or vehicles registered with that address;
3. An individual listing the residence address on their driver's license or other personal identification cards or listings;
4. An individual listing the residence in connection with any employment of that individual;
5. An individual whose name is listed at the residences addressed for purposes of utility bills or other services provided at that residence address;
6. An individual who uses the residence address to register to vote;
7. Attendance of dependents at a primary or secondary school;
8. Filing a homeowner's property tax exemption;
9. Renting or leasing a home for use as a residence;
10. Recent marriage or divorce records issued in California;
11. Recent California court documents showing an address; or
12. Police records from a California law enforcement agency.

Documents ***not acceptable*** as verification of residency are:

- A declaration or an affidavit can only be used in support with at least two of the above verifications:

Domicile residence can also be established on the basis that an individual is observed, on a frequent basis departing from and returning to the residence. Domicile residence can further be established if an individual has resided at the residence in the capacity of a guest or visitor for a majority of any two week period of time, or a total of thirty (30) days in a 12 month period.

Confidentiality of Criminal Records

The HACM will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

Misuse of the above information by any employee will be grounds for discipline up to and including termination of employment.

C. FAMILY OBLIGATIONS [24 CFR 982.551]

1. The family must supply any information that the HACM or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR 982.551). "Information" includes any requested certification, release or other documentation.
2. The family must supply any information requested by the HACM or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
3. The family must disclose and verify Social Security Numbers (as provided by 24 CFR part 5.216 and must sign and submit consent forms for obtaining information in accordance with 24 CFR 5.230.
4. All information supplied by the family must be true and complete.
5. The family is responsible for an HQS breach caused by the family as described in 982.404(b).
6. The family must allow the HACM to inspect the unit at reasonable times and after reasonable notice.
7. The family may not commit any serious or repeated violations of the lease.
8. The family must notify the owner and, at the same time, notify the HACM before the family moves out of the unit or terminates the lease upon notice to the owner.
9. The family must promptly give the HACM a copy of any owner eviction notice.
10. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
11. The composition of the assisted family residing in the unit must be approved by the HACM. The family must promptly inform the HACM of the birth, adoption or court-ordered custody of a child. The family must request HACM approval *prior* to adding any other family member as an occupant of the unit.
12. The family must promptly notify the HACM if any family member no longer resides in the unit.

13. If the HACM has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or HACM approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.
14. Members of the household may engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family.
15. The family must not sublease or let the unit.
16. The family must not assign the lease or transfer the unit.
17. The family must supply any information or certification requested by the HACM to verify that the family is living in the unit, or relating to family absence from the unit, including any HACM-requested information or certification on the purposes of family absences. The family must cooperate with the HACM for this purpose. The family must promptly notify the HACM of absence from the unit.
18. The family must not own or have any interest in the unit.
19. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with the programs.
20. The members of the household may not engage in drug-related criminal activity, or violent criminal activity. The members of the household may not engage 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 or which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor or agent). (See 24 CFR 982.553)
21. 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.
22. An assisted family, or members of the family, may not receive Housing Choice Voucher tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) Federal, State or local housing assistance program.

Enforcing Family Obligations

Explanations and Terms

The term "Promptly" when used with the Family Obligations always means "within 10 business days." Denial or termination of assistance is always at the discretion of HACM except where this Plan or the regulations state otherwise.

HQS Breach

The inspector will determine if an HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions to cure HQS breaches.

Lease Violations

The following criteria can be used to decide if a serious or repeated violation of the lease will result in termination of assistance:

If the owner terminates tenancy through court action for serious or repeated violation of the lease, or

If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and the HACM determines that the cause is a serious or repeated violation of the lease based on available evidence, or

If the owner notifies the family of termination of tenancy assistance for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, or

If there are police reports, neighborhood complaints or other third party information, that has been verified by the HACM, including inspection/s of the unit by the HACM.

Notification of Eviction

If the family requests assistance to move and they did not notify the HACM of an eviction within 5 days of receiving the Notice of Lease Termination, the move will be denied, and action may be taken by the HACM to terminate assistance to the family based on violation of family obligations.

Proposed Additions to the Family

The HACM may deny a family's request to add additional family members if any of the members violate any of the grounds for denial of assistance listed in this chapter,

including being part of a family who has been evicted from any public housing unit or terminated from any Housing Choice Voucher Program, or any Federal housing program.

Limitation on Profit-making Activity in Unit

If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business, which is not available for sleeping, it will be considered a program violation.

If the HACM determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation.

If the HACM determines the business is not legal, it will be considered a program violation.

Interest in Unit

The owner may not reside in the assisted unit. The only exception to this is if the unit is a "shared housing" unit and the owner resides in the unit, and does not receive subsidy. The owner may not, however, even in shared housing, be a relative of any participants in the program who are his/her tenants as defined in the Federal regulations and set forth in this Administrative Plan.

Fraud

In each case, the HACM will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

* In the event of false citizenship claims: (Refer to Section D.)

D. PROCEDURES FOR NON-CITIZENS [24 CFR 5.514, 5.516, 5.518]

Denial or Termination due to Ineligible Immigrant Status

Applicant or participant families in which all members are neither U.S. citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The HACM must offer the family an opportunity for a hearing. (See Eligibility for Admission Chapter, section on Citizenship/Eligible Immigration Status.)

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

False or Incomplete Information

When the HACM has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the HACM shall not give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status.

The HACM will then verify eligible status, deny, terminate, or prorate as applicable.

The HACM will deny or terminate assistance based on the submission of false information or misrepresentation.

Procedure for Denial or Termination

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with the HACM either after the INS appeal or in lieu of the INS appeal.

After the HACM has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

E. ZERO (\$0) ASSISTANCE TENANTS

HAP Contracts On or After 10/2/95 [24 CFR 982.455 (a)]

For contracts effective on or after 10/2/95, the HACM has no liability for unpaid rent or damages, and the family may remain in the unit at \$0 assistance for up to 180 days after the last HAP payment. If the family is still in the unit after 180 days, the assistance will be terminated. If, within the 180-day timeframe, an owner rent increase or a decrease in the Total Tenant Payment causes the family to be eligible for a housing assistance payment, the HACM will resume assistance payments for the family.

In order for a family to move to another unit during the 180 days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

F. OPTION NOT TO TERMINATE FOR MISREPRESENTATION

[24 CFR 982.551, 982.552(c)]

If the family has misrepresented any facts that caused the HACM to overpay assistance, the HACM may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement or reimburses the HACM in full.

G. MISREPRESENTATION IN COLLUSION WITH OWNER

[24 CFR 982.551, 982.552 (c)]

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, the HACM will deny or terminate assistance.

In making this determination, the HACM will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

Owner will also be permanently terminated from the Housing Choice Voucher program.

H. MISSED APPOINTMENTS AND DEADLINES [24 CFR 982.551, 982.552 (c)]

It is a Family Obligation to supply information, documentation, and certification as needed for the HACM to fulfill its responsibilities. The HACM schedules appointments and sets deadlines in order to obtain the required information. The Obligations also require that the family allow the HACM to inspect the unit, and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the HACM, may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, failing to keep an appointment, or for failure to allow the HACM to inspect the unit.

The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled, as specified in this Plan.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

Eligibility for Admissions (Includes Income Targeting Letters, Pickup and Return of Eligibility Packets, Attending Eligibility Appointments/Interviews
Verification Procedures
Certificate/Voucher Issuance and Briefings
Housing Quality Standards and Inspections
Recertifications
Appeals (Reviews and Hearings)
Scheduled Meetings with HACM staff
Housekeeping Classes
Required before Voucher issuance. Required during tenancy, if failed housekeeping on annual inspection report.
Failure to attend will result in the family being ineligible for the HCV Program for three years.
Any Classes and Meetings scheduled by Central Valley Coalition for Affordable Housing under the Family Self-Sufficiency Program or Housing Search Assistance Program.

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

- Medical emergency
- Family emergency

DENIAL OF VOUCHER:

Note: If client denied voucher due to not attending the HSAP Housekeeping Class or any other class deemed mandatory by HSAP OR not attending the Voucher Briefing, then the family is denied admittance to the Program for a minimum of three years from the date of denial.

Procedure when Appointments are Missed or Information not Provided

For most purposes in this Plan, the family will be given two opportunities before being issued a notice of termination or denial for breach of a family obligation, except for Informal Reviews/Hearings, Briefings of New Admissions, Including Mini-Briefings and Briefings for Portables transferring to this jurisdiction. In these cases the family is given one opportunity to attend the scheduled meeting.

A client/applicant who is 15 minutes late or more will be scheduled a second appointment. If the family misses the second appointment, the family will be terminated from the program.

If the client calls to cancel the appointment, before the time of the appointment, the Eligibility Specialist will have the discretion to deny a new appointment time for the client depending on the circumstances of the missed appointment. The HACM may require verification of the reason for the missed appointment.

After issuance of the termination notice, if the family offers to correct the breach within the time allowed to request a hearing, the notice may be rescinded at the discretion of HACM. These rescinded actions may include terminations due to non-payment of debt owed to the HACM and family brings the amount owed current. In those instances, the termination will proceed even if the family brings the amount current, if they have had a history of non-compliance with the program, such as previous termination notices, history of past due amounts owed, inaction to schedule meeting with worker to re-sign debt agreement, etc.

CHAPTER 16

OWNER DISAPPROVAL AND RESTRICTION

[24 CFR 982.54,982.306,982.453]

INTRODUCTION

It is the policy of the HACM to recruit owners to participate in the Voucher program. The HACM will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the HACM. The regulations define when the HACM must disallow an owner participation in the program, and they provide the HACM discretion to disapprove or otherwise restrict the participation of owners in certain categories. This Chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

A. DISAPPROVAL OF OWNER [24 CFR 982.306, 982.54(d)(8)]

The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party.

The HACM will not approve the owner for the following reasons:

HUD or any other agency directly related has informed the HACM that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

HUD has informed the HACM that 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.

HUD has informed the HACM that a court or administrative agency has determined that the owner has violated the Fair Housing Act or other federal equal opportunity requirements.

Unless their lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. The HACM may waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

In cases where the owner and tenant bear the same last name, the HACM may, at its discretion, require the family and/or owner to certify whether they are related to each other in any way.

The owner has violated obligations under a housing assistance payments contract under Housing Choice Voucher of the 1937 Act (42 U.S.C. 1437f).

The owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligations to maintain the unit to HQS, including any standards the HACM has adopted in this policy.

The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.

The owner has engaged in drug-related criminal activity or any violent criminal activity.

The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Housing Choice Voucher assistance or leased under any other federal housing program.

The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Housing Choice Voucher or any other federally assisted housing program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

Threatens the right to peaceful enjoyment of the premises by other residents;

Threatens the health or safety of other residents, of employees of the HACM, or of owner employees or other persons engaged in management of the housing.

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

Is drug-related criminal activity or violent criminal activity

The owner has not paid State or local real estate taxes, fines or assessments.

The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.

The owner has not provided a Tax Identification Number on the IRS W-9 form or has not provided a number that corresponds with IRS records, according to IRS rules, and has not corrected the number or responded to HACM's correspondence.

The owner owes any amount of moneys to the HACM.

The owner has engaged in or threatened abusive or violent behavior toward HACM personnel. (See below for definition)

"Abusive or violent behavior towards HACM personnel" includes, but is not limited to, verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial of owner participation in the program.

"Threatening" includes, but is not limited to oral or written threats, suggestions, or physical gestures that communicate an intent to abuse or commit violence.

Actual physical abuse or violence will always be cause for termination of an owner in participation in the program.

B. OWNER RESTRICTIONS AND PENALTIES [24 CFR 982.453]

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, the HACM will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The HACM may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner the HACM will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

Penalties

HUD notification of owner debarment/suspension: Restricted until HUD reinstates

HUD notification of violation of fair housing and federal equal opportunity: Restricted until HUD reinstates (Includes HACM's investigations and forwarding of violation to HUD and/or Fair Housing)

Violation of contract obligations, including, but not limited to: (HACM discretion on penalty)

- Collecting excess rent
- Unallowed charges for services or amenities
- Collecting HAP on unit not occupied by participant
- Failure to provide owner-supplied utilities or services
- Fraudulent claim
- Permitting an unauthorized occupant
- Non-compliant eviction - Third violation
- Falsification of rent comparable for a unit in same complex

- Unapproved agreements with onerous or prohibited provisions
- Violation of tenant rights/issuance of false eviction notices

Owner fraud, bribery or other corrupt act in federal housing program, including abusive or threatening behavior toward HACM personnel: Restricted Indefinitely

Owner engaged in drug-related criminal activity or violent criminal activity: Minimum of three years

Owner has engaged in or threatened abusive or violent behavior toward HACM personnel: Restricted indefinitely

History of noncompliance with HQS/codes and failure to correct serious HQS deficiencies resulting in 4 or more abatements during one contract term: Minimum of one year

Failure to provide Tax Identification Number to the HACM or to provide correct Tax Identification Number per IRS: Restricted until Tax Identification Number corrected and correct W-9 submitted

Failure to pay any outstanding debts owed to the HACM: HACM discretion

In some cases, the HACM may cancel only those contracts that have been violated.

If the violation is curable (such as HQS breaches or noncompliance evictions), the HACM will abate assistance and give the owner an opportunity to correct before terminating.

Leniency may be justified based on the owner's history of compliance, evidence of intent, knowledge of the nature of the violation, absence of harm to the tenant, and willingness to cure.

C. OTHER REMEDIES FOR OWNER VIOLATIONS

Overpayments

If the landlord has been overpaid as a result of fraud, misrepresentation or violation of the Contract, the HACM may terminate the Contract and arrange for restitution to the HACM and/or family as appropriate.

The HACM will make effort to recover any overpayments made as a result of landlord fraud or abuse, including filing suit. Payments otherwise due to the owner may be debited in order to repay the HACM or the tenant, as applicable.

D. AUTHORIZATION FOR PENALTIES

Housing Choice Voucher staff may authorize abatement for HQS failure. The Housing Choice Voucher Director may authorize and waive any other penalties.

E. APPEALS

Owners in the Housing Choice Voucher Program have no rights of appeal. However, the HACM considers any information the penalized owner presents to dispute the HACM's determination.

F. CHANGE IN OWNERSHIP

A change in ownership does not require execution of a new contract/lease, unless the terms of the lease are being changed by either the client or the owner.

The HACM may approve the assignment of the HAP contract at the old owner's request. The HACM may approve the assignment, since they are a party to the contract. The HACM may deny approval of assignment of the contract, for any of the reasons listed in Section A of this chapter.

The HACM will also process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title and a W-9 (IRS form) signed by the new owner showing the Employee Identification Number or Social Security number of the new owner.

Note: The HACM must receive a written request by the owner in order to change the HAP payee and/or the address to which payment is to be sent.

Chapter 17

VIOLENCE AGAINST WOMEN ACT (VAWA)

The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the Housing Choice Voucher (HCV) program.

A. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

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

- The term *stalking* means:
 - To 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.

B. DOCUMENTATION [24 CFR 5.2007]

If HACM is presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The HACM may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the HACM's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

1. A completed and signed HUD-approved certification form (HUD-50066, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim.
2. A federal, state, tribal, territorial, or local police report or court record.
3. Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional. Acceptable documentation also includes a record of an administrative agency, and documentation from a mental health 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 HACM may not require third-party documentation (Item 2 and 3) in addition to certification (Item 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

Any request for documentation of domestic violence, dating violence, sexual assault or stalking will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The HACM may, in its discretion, extend the deadline for 10 business days. Any extension granted by the PHA will be in writing.

CONFLICTING DOCUMENTATION [24 CFR 5.2007(e)]

In cases where the HACM receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the HACM may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (Item 2 and 3). The HACM must honor any court orders issued to protect the victim or to address the distribution of property.

If presented with conflicting certification documents (two or more forms HUD-50066) from members of the same household, the HACM 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.

DISCRETION TO REQUIRE NO FORMAL DOCUMENTATION [24 CFR 5.2007(d)]

The HACM 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).

If the HACM accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault or stalking, the PHA will document acceptance of the statement or evidence in the individual's file.

FAILURE TO PROVIDE DOCUMENTATION [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, the HACM must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the HACM may allow, the PHA may deny relief for protection under VAWA.

C. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to the HACM regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the HACM:

- May not enter the information into any shared database
- 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
- May not provide the information to any other entity or individual, except to the extent that the disclosure is:
 - requested or consented to by the individual in writing
 - required for use in an eviction proceeding, or
 - otherwise required by applicable law.

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

Chapter 18

OWNER OR FAMILY DEBTS TO THE HACM

[24 CFR 982.552]

INTRODUCTION

This Chapter describes the HACM's policies for the recovery of monies, which have been overpaid for families, and to owners. It describes the methods that will be utilized for collection of monies and the guidelines for different types of debts. It is the HACM's policy to meet the informational needs of owners and families, and to communicate the program rules in order to avoid owner and family debts. Before a debt is assessed against a family or owner, the file must contain documentation to support the HACM's claim that the debt is owed. The file must further contain written documentation of the method of calculation, in a clear format for review by the owner, the family or other interested parties.

When families or owners owe money to the HACM, the HACM will make effort to collect it. The HACM will use a variety of collection tools to recover debts including, but not limited to:

- ❑ Requests for lump sum payments
- ❑ Civil suits
- ❑ Payment agreements
- ❑ Abatements
- ❑ Reductions in HAP to owner
- ❑ Collection agencies
- ❑ Credit bureaus

A. REPAYMENT AGREEMENT FOR FAMILIES [(24 CFR 982.552 (c) (v-vii)]

A Repayment Agreement as used in this Plan is a document entered into between the HACM and a person who owes any debt to the HACM. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of repayment, any special provisions of the agreement, and the remedies available to the HACM upon default of the agreement. The Repayment Agreements may be instigated by the HACM or by the District Attorney's fraud/prosecution investigation.

Repayment Agreements Instigated Directly by the HACM

There are some circumstances in which the HACM will not enter into a payment agreement. They are:

If the amount owing is more than \$2,500; this can include one or more debts owing to the HACM.

If the HACM determines that the family is to be terminated from the program and an amount is owing to the HACM due to this termination, the amount may be collected either in full from the family or submitted to the credit collection agency, or collected through the means of court action.

- ❑ The maximum amount for which the HACM will enter into a repayment agreement with a family is \$2,500. If family has two or more debts owing to the HACM, they cannot exceed a total of \$2,500.
- ❑ The maximum length of time the HACM will enter into a repayment agreement with a family is 24 months.
- ❑ There is no minimum monthly amount, other than the repayment agreement cannot exceed 24 months in duration.
- ❑ The HACM may consider the family's income and verify with the family the maximum amount of the monthly payment that the family can afford.
- ❑ The family will be terminated from the program if the repayment agreement is breached, or if the family refuses to sign a Repayment Agreement, whether the amount owing is due to an owner damage claim or HAP repayment for late reporting, or fraud decision that has been overturned in the informal hearing process. The family will be given, of course, all opportunities for an informal hearing process, or court process for claims due to damages.
- ❑ Any reference to amounts owing by the family include any amounts owed to any federal housing program with any agency.

Late Payments to the Housing Authority Directly

A payment will be considered to be in arrears if:

- The payment has not been received by the close of the business day on which the payment was due. If the due date is on a weekend or holiday, the due date will be at the close of the next business day.

- If the family's repayment agreement is in arrears, the HACM will:

Send a notice stating the overdue amount and the date the amount must be in the office to avoid terminating housing assistance.

If termination action is taken, total amount due will be forwarded to HACM counsel or to local collection agency for collection.

- If the family requests a move to another unit and has a repayment agreement in place and whether the repayment agreement is or is not in arrears:

The family will be required to pay the balance in full prior to the issuance of a voucher.

Repayment Schedule for Moneys Owed to the HACM - (Not through the District Attorney's Office)

<u>Amount Owed</u>	<u>Maximum Term</u>
0 - \$500	12 months
\$501 - \$1,000	18 months
\$1,001 - \$2,500	24 months

Repayment Agreements Instigated by District Attorney and/or Prosecution

Repayment Agreements may be instigated by the District Attorney's office after investigative services by their office. The Repayment Agreements can be issued for any amounts; there are no minimum or maximum amounts, and for any time frames that the District Attorney's office deems necessary. Either the client or owner who may owe amounts to the Housing Authority and HUD. Repayment Agreements can be issued on clients and/or owners who are still on the program or who have been terminated from participating in the program.

Any fraud cases with amounts by an owner or client that exceed \$20,000 will be forwarded to the Inspector General's office for their review. They will refer the case back to our locality if they prefer that the local District Attorney's office pursue prosecution and repayment.

If the client or owner do not repay the amounts as indicated in the agreement, the Housing Authority and the District Attorney's office will take action to prosecute, if not already done so.

The amount of dollars owed to the Housing Authority and HUD will be computed from the time of commencement of the fraud. Family will have been considered ineligible at the commencement of the fraud and all Housing Authority Payments will be computed into the amount owed up to the time of termination from the Program or up to the time of an interim conducted to process the correct HAP amount.

B. DEBTS OWED FOR CLAIMS [(24 CFR 792.103, 982.552 (c)(v-vii)]

If a family owes money to the HACM for claims paid to an owner:

Guidelines as stated above in Section A. will be followed

C. DEBTS DUE TO MISREPRESENTATIONS/NON-REPORTING OF INFORMATION [24 CFR 982.163]

HUD's definition of program fraud and abuse is a single act or pattern of actions that:

- Constitutes false statement, omission, or concealment of a substantive fact, made with intent to deceive or mislead, and that results in payment of Housing Choice Voucher program funds in violation of Housing Choice Voucher program requirements.

Program Fraud

Families who owe money to the HACM due to program fraud will be terminated from the program due to violation of family obligation.

The HACM will review together with the District Attorney's office and/or Inspector General's office which families will be referred for criminal prosecution by the local police and the District Attorney's office. If a family owes an amount, which equals or exceeds \$20,000 as a result of program fraud, the case will be referred to the Inspector General.

Payment Procedures for Program Fraud

Families who commit program fraud will be terminated from the program and all amounts owing will be processed as stated in above paragraphs.

If the family is not terminated due to the informal hearing process, but the family owes moneys to the HACM, the HACM will either require the amount to be paid in full or will enter a repayment agreement with the family, as outlined above in Repayment Agreements, depending on the decision of the informal hearing officer.

D. GUIDELINES FOR PAYMENT AGREEMENTS [24 CFR 982.552(c)(v-vii)]

Repayment Agreements will be executed between the HACM and the head of household and co-head or spouse or through the District Attorney's office.

Monthly payments may be decreased in cases of hardship with the prior notice of the family, verification of the hardship, and the approval of the Eligibility Supervisor. A new repayment agreement will then be issued.

See Section A for default of repayment agreement.

No move will be approved until the debt is paid in full unless the move is the result of the following causes, and the Repayment Agreement is current:

- Family size exceeds the HQS maximum occupancy standards
- The HAP contract is terminated due to owner non-compliance or opt-out
- A natural disaster

Refer to Section A of this Chapter for details of repayment agreements.

E. DEBTS DUE TO MINIMUM RENT TEMPORARY HARDSHIP

If the family owes the HACM money for rent arrears incurred during the minimum rent period, the HACM will calculate the total amount owed and divide it by 12 to arrive at a reasonable payback amount that the family will be required to pay to the HACM monthly in addition to the family's regular monthly rent payment to the owner. The family will be required to pay the increased amount until the arrears are paid in full to the HACM.

Minimum rent arrears that are less than \$25 will be required to be paid in full the first month following the end of the minimum rent period.

The minimum monthly amount for a repayment agreement incurred for minimum rent arrears is \$25.

The HACM will not enter into a repayment agreement that will take more than 12 months to pay off.

If the family goes into default on the repayment agreement for back rent incurred during a minimum rent period, the HACM will reevaluate the family's financial situation and determine whether the family has the ability to pay the increased rent amount and if not, may reissue another repayment agreement.

F. OWNER DEBTS TO THE HACM [24 CFR 982.453(b)]

If the HACM determines that the owner has retained Housing Assistance or Claim Payments the owner is not entitled to, the HACM may reclaim the amounts from future Housing Assistance or Claim Payments owed the owner for any units under contract.

If future Housing Assistance or Claim Payments are insufficient to reclaim the amounts owed, the HACM may take one or more of the following options:

- Require the owner to pay the amount in full within 30 days
- Enter into a repayment agreement with the owner for the amount owed
- Pursue collections through the local court system and execute a lien on the Property.
- Restrict the owner from future participation

In addition, the HACM may refer to local law enforcement and the District Attorney's office for investigation and possible prosecution, or the Inspector General's office depending on the circumstances of the case.

G. WRITING OFF DEBTS

Debts will be written off if:

- The debtor's whereabouts are unknown and the debt is more than fifteen years old.
- A determination is made that the debtor is judgment proof.
- The debtor is deceased.
- The amount is less than \$50 and is at least five years old and the debtor cannot be located.

Chapter 19

COMPLAINTS AND APPEALS

INTRODUCTION

The informal hearing requirements defined in HUD regulation are applicable to participating families who disagree with an action, decision, or inaction of the HACM. This Chapter describes the policies, procedures and standards to be used when families disagree with a HACM decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the HACM to ensure that all families have the benefit of all protections due to them under the law, and the HACM responds promptly to complaints by families, or owners, staff or the public and investigates. Anonymous complaints are checked whenever possible.

A. COMPLAINTS TO THE HACM

The HACM will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The HACM may require that complaints other than HQS violations be put in writing. HQS complaints may be reported by telephone.

The HACM review/hearing procedures will be provided to families in the briefing packet. (Complaint and Grievance Procedure)

Categories of Complaints

1. Complaints from families: If a family disagrees with an action or inaction of the HACM or owner.
2. Complaints from Owners: If an owner disagrees with an action or inaction of the HACM or a family.
3. Complaints from staff: If a staff person reports an owner or family either violating or not complying with program rules.
4. Complaints from the general public: Complaints or referrals from persons in the community in regard to the HACM, a family or an owner.

All complaints will be referred to the Supervisor, and if not resolved at that level, then the Housing Choice Voucher Manager. The Housing Choice Voucher Manager will, when necessary, refer the complaint to the Housing Choice Voucher (HCV) Program Director.

Complaints will, where appropriate, be referred to law enforcement, the District Attorney, or other investigative entity for investigation.

B. PREFERENCE DENIALS

If the HACM denies a preference to an applicant, and the applicant disagrees with the decision, the applicant is entitled to a meeting. This is different from an Informal Review or Hearing. The person who made the decision to deny the preference, or any other HACM representative, may conduct the meeting. The meeting is limited only to the circumstances pertaining to the preference denial.

When the HACM denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and offered the opportunity for a meeting with HACM staff to discuss the reasons for the denial and to dispute the HACM's decision.

C. INFORMAL REVIEW PROCEDURES FOR APPLICANTS (CFR 982.554)

Reviews are provided for applicants who are denied assistance before the effective date of the HAP Contract. The exception is that when an applicant is denied assistance for citizen or eligible immigrant status, the applicant is entitled to an informal hearing.

When the HACM determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice must contain:

- The reason(s) for the decision;
- That the applicant may request an informal review of the decision;
- Description of how to obtain an informal review and;
- The time limit for requesting a review.

The HACM must provide applicants with the opportunity for an Informal Review of decisions denying:

- Listing on the HACM's waiting list (excluding qualification for a preference)
- Issuance of a Voucher
- Participation in the program
- Assistance under portability procedures

Informal Reviews are **not required** for established policies and procedures and HACM determinations such as:

1. Discretionary administrative determinations by the HACM
2. General policy issues or class grievances
3. A determination of the family unit size under the HACM subsidy standards

4. Refusal to extend or suspend a Voucher term
5. Determination not to grant approval of the tenancy
6. Determination that a unit is not in compliance with HQS
7. Determination that the unit is not in accordance with HQS due to family size or composition

Procedure for Review

A request from the applicant for an Informal Review must be received in writing by the close of the business day, no later than fourteen (14) calendar days from the date of the HACM's notification of denial of assistance. The informal review will be scheduled and held within a reasonable time after the request is received.

After a review date is scheduled, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. The HACM may require verification of such "good cause," and any verification and documentation that the HACM may request must be provided by the family or a review date will not be rescheduled.

If a family does not appear at a scheduled review at the time specified, or within 15 minutes of that time, and has not rescheduled the review in advance pursuant to the above paragraph, the family will be deemed to have withdrawn its request for informal review and the HACM decision will not be modified.

The Informal Review may not be conducted by the person who made or approved the decision under review, nor a subordinate of such person. There will be a single reviewing officer.

The Review can be conducted by:

1. An HACM employee; or
2. An individual from outside the HACM

A copy of the HACM's Complaint & Grievance Procedure will be mailed along with the Response to Request for an Informal Review.

The review may be conducted by telephone if acceptable to both parties.

The applicant will be given the opportunity of presenting oral or written objections to the decision under review. Both the HACM and the family may present evidence and witnesses. The family may use an attorney or appropriate representative to assist them at its own expense.

The Reviewer will determine whether the action, inaction or decision of the HACM is in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual

circumstances of the family will be based on a preponderance of the evidence presented at the review.

A Notice of the Review findings will be provided in writing to the applicant within ten (10) calendar days after the review is complete, or in a reasonable time in exceptional cases. It shall include the decision of the Reviewer, and an explanation of the reasons for the decision.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

D. INFORMAL HEARING PROCEDURES FOR PARTICIPANTS [24 CFR 982.555

A copy of the HACM's Complaint & Grievance procedure will be mailed along with the response to request for an informal hearing.

The HACM must provide participants with the opportunity for an Informal Hearing for decisions related to any of the following HACM determinations:

1. Determination of the family's annual or adjusted income and the computation of the housing assistance payment
2. Appropriate utility allowance used from schedule
3. Family unit size determination under HACM subsidy standards
4. Determination that a Family is residing in a unit with more bedrooms than appropriate for the family unit under HACM subsidy standards
5. Determination to deny a family's request for an exception from the subsidy standards
6. Determination to terminate assistance for a participant family because of the family's action or failure to act (See 24 CFR 982.552)
7. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under HACM policy and HUD rules.
8. Determination to terminate a family's FSS Contract, withhold supportive services, or propose forfeiture of the family's escrow account.

For the decisions based on items 1-3 above, HACM must notify the family that they may ask for an explanation of the basis of the determination and if they do not agree with the determination, they may request an informal hearing.

In the cases described on items 4-8 above, HACM must give the family prompt written notice that they may request an informal hearing. The notice must contain:

1. A brief statement of reasons for the decision
2. That if the family does not agree with the decision the family may request an informal hearing on the decision and;

3. Deadline for the family to request an informal hearing, which must be received in writing by the close of business day, no later than fourteen (14) calendar days from the date of the HACM's notification of termination of assistance.

Informal Hearings are not required for established policies and procedures and HACM determinations such as:

1. Discretionary administrative determinations by the HACM
2. General policy issues or class grievances
3. Establishment of the HACM schedule of utility allowances for families in the program
4. An HACM determination not to approve an extension or suspension of a voucher term
5. An HACM determination not to approve a unit or lease
6. An HACM determination that an assisted unit is not in compliance with HQS. (However, the HACM must provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family.
7. An HACM determination that the unit is not in accordance with HQS because of the family size
8. An HACM determination to exercise or not exercise any right or remedy against the owner under a HAP contract

Notification of Hearing and Hearing Procedures

The notification of hearing will contain:

1. The date and time of the hearing
2. The location where the hearing will be held
3. The family's right to bring evidence, witnesses, legal or other representation at the family's expense
4. The right to examine at the HACM office any documents that are directly relevant to the hearing, and, at the family's expense, to obtain a copy of any such documents prior to the hearing. (HACM charges \$0.35 per page for copies, and this fee, must be paid before the copy will be provided to the family.) Either of these requests must be made not later than 4 calendar days before the scheduled hearing.

5. A notice to the family that the HACM will request a copy of any documents or evidence the family will use at the hearing at HACM's expense. No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and statements.

Families have the right to:

- Present written or oral objections to the HACM's determination.
- Present any information or witnesses pertinent to the issues at the hearing;
- Be represented by legal counsel, advocate, or other appropriate designated representative at their own expense. In such case, the family shall notify HACM at least two (2) business days before the scheduled hearing of their election to be represented by counsel.

In addition to other rights contained in this Chapter, the HACM has a right to:

1. Have its attorney present; and
2. Have staff persons and other witnesses familiar with the case present.

The Informal Hearing shall be conducted by a Hearing Officer appointed by the HACM who is neither the person who made or approved the decision, nor a subordinate of that person. The HACM may appoint an employee or an individual from outside the HACM to conduct Informal Hearings.

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The Hearing Officer may record the proceedings on tape solely to assist in recounting the facts and statements for his/her final determination. The audiotape is the Hearing Officer's, and not a HACM document or recording and is erased once he/she renders his/her findings.

If family fails to appear for the hearing, the action of the HACM will be affirmed by the Hearing Officer.

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 a deadline ordered by the Hearing Officer, the action of the HACM shall take effect and another hearing will not be granted.

The Hearing Officer will determine whether the action, inaction or decision of the HACM is in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the Hearing Findings shall be provided in writing to the HACM and the family within 14 calendar days and shall include:

- A brief statement of the reasons for the decision;
- If the decision involves money owed, the amount owed; and
- The date the decision goes into effect.

The HACM is not bound by hearing decisions:

- Which concern matters in which the HACM is not required to provide an opportunity for a hearing;
- Which conflict with or contradict to HUD regulations or requirements;
- Which conflict with or contradict Federal, State or local laws; or
- Which exceed the authority of the person conducting the hearing.

If the Hearing Officer affirms termination of the participant, the Hearing Officer will forward his/her hearing findings to the HACM for review. The HACM will forward the hearing findings along with Form 71, "Notice of Final Decision of the Matter."

The HACM shall send a letter to the participant within 10 business days of the decision by the Hearing Officer if the HACM determines it is not bound by the Hearing Officer's determination. The letter shall include the HACM's reasons for the decision to not be bound.

If the Hearing Officer determines that the family is not to be terminated from the program, but stipulates that certain actions must be taken by the family in order to avoid termination and the family is in non-compliance, the Hearing Officer has a right to review the case again and to terminate the family without the right to further informal hearing.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

E. EXTENUATING CIRCUMSTANCES REGARDING DENIALS/TERMINATIONS DUE TO MISSED APPOINTMENTS

A request from the family for an Informal Hearing must be received in writing by the close of the business day, no later than fourteen (14) calendar days from the date of the

HACM's notification of termination of assistance. The informal hearing will be scheduled and held within a reasonable time after the request is received.

After a hearing date is scheduled, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. The HACM may require verification of such "good cause," and any verification and documentation that the HACM may request must be provided by the family or a review date will not be rescheduled.

If a family does not appear at a scheduled hearing at the time specified, or within 15 minutes of that time, and has not rescheduled the hearing in advance pursuant to the above paragraph, the family will be deemed to have withdrawn its request for informal hearing and the HACM decision will not be modified.

The informal hearing may not be conducted by the person who made or approved the decision, nor a subordinate of such person.

F. HEARING AND APPEAL PROVISIONS FOR "RESTRICTIONS ON ASSISTANCE TO NON-CITIZENS" [24 CFR 5.514]

Assistance to the family may not be delayed, denied, reduced or terminated on the basis of immigration status of a family member if:

1. The primary and secondary verification of any immigration documents that were timely submitted has not been completed;
2. The family member for whom required evidence has not been submitted has moved from the assisted dwelling unit;
3. The INS appeals process under 5.514(e) has not been concluded;
4. Assistance is prorated in accordance with 5.520; or
5. Deferral of termination of assistance is granted.

INS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search does not verify the claim, the HACM notifies the applicant or participant within ten days of their right to appeal to the INS within thirty days or to request an informal hearing with the HACM either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give the HACM a copy of the appeal and proof of mailing or the HACM may proceed to deny or terminate. The time period to request an appeal may be extended by the HACM for good cause.

The request for a HACM hearing must be received in writing by the close of the business day, no later than fourteen (14) calendar days from the date of the HACM's notification.

After receipt of a request for an informal hearing, the hearing is conducted as described in this chapter for both applicants and participants. If the hearing officer decides that the individual is not eligible, and there are no other eligible family members the HACM will:

- Deny the applicant family
- Defer termination if the family is a participant and qualifies for deferral
- Terminate the participant if the family does not qualify for deferral

If there are eligible members in the family, the HACM will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

- If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.
- Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.
- Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to a hearing regarding determinations of Tenant Rent and Total Tenant Payment.
- Families denied or terminated for fraud in connection with the non-citizen rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

G. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES

When applicants are denied placement on the waiting list, or denied admittance to the program, or the HACM is terminating assistance, the family may be informed that presence of a disability may be considered as a mitigating circumstance during the informal review/hearing process.

Examples of mitigating circumstances are: a) A person with a cognitive disorder may not have understood the requirement to report increases in income; b) A person may not understand the need to make regular repayments on a promissory note; c) Minor criminal records for public drunkenness may be due to medication; prior incarcerations for being disorderly may be emotional disorder.

Chapter 20

SPECIAL HOUSING TYPES

[24 CFR 982.601]

INTRODUCTION

The HACM will permit the use of special housing types in its program only if the applicant/participant can demonstrate that it is needed as a reasonable accommodation for a person with a disability. The exception to this is Shared Housing and Single Room Occupancy (SRO's) in which the HACM will permit these types of special housing for all participants. Acceptable demonstration will include documentation from one or more knowledgeable professionals who are familiar with the applicant/participant and or the type of special housing requested as accommodation.

The HACM will not set aside any program funding for special housing types, or for a special housing type.

Verification of Need for Reasonable Accommodation

An example of acceptable documentation as verification of the need for reasonable accommodation would be a letter to the HACM describing how the special housing type requested provides the accommodation that the person is in need of. The request and documentation will be reviewed by the Housing Choice Voucher Director and a written response stating approval or disapproval will be sent to the applicant/participant within fourteen (14) business days of receipt of the request.

A copy of the HACM's response with supporting documentation will be maintained in the applicant/participant's file. The requested housing type must be approvable by all other HUD standards and HQS requirements in accordance with 24 CFR 982 Section M - Special Housing Types.

A. SINGLE ROOM OCCUPANCY [24 CFR 982.602]

Only a single person may reside in a SRO housing unit.

- Payment standard used is 75% of the studio payment standard.
- Utility allowance is 75% of the studio utility allowance.

All other criteria, including Housing Quality Standards for SRO units, are explained 24 CFR 982.602.

B. CONGREGATE HOUSING [24 CFR 982.606]

An elderly person or a person with disabilities may reside in a congregate housing unit.

The HACM may approve a family member or live-in aide to reside with the elderly person or person with disabilities.

The HACM will 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.

Congregate Housing Lease and HAP Contract [24 CFR 982.607]

For congregate housing there will be a separate lease and HAP contract for each assisted family.

Unless there is a live-in aide, the payment standard for a family that resides in a congregate housing unit is the zero-bedroom payment standard on the HACM's payment standard schedule.

However, if there are two or more rooms in the unit (not including kitchen or sanitary facilities), the payment standard for a family that resides in a congregate housing unit is the one bedroom payment standard.

If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

Housing Quality Standards

The HACM will ensure that all congregate housing units approved for the program are in compliance with all of the Housing Quality Standards for congregate housing as regulated in 24 CFR 982.609.

C. GROUP HOMES [24 CFR 982.610, 982.612]

A group home must be licensed, certified, or otherwise approved in writing by the State, or the State's licensing department.

An elderly person or a person with disabilities may reside in a State-approved group home. If approved by the HACM, a live-in aide may reside with a person with disabilities.

The HACM 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. Except for a live-in aide, all residents of a group home must be elderly persons or persons with disabilities.

The HACM will not approve assistance for a person to live in a group home if file documentation indicates that the person is in need of continual medical or nursing care.

No more than twelve persons may reside in a group home. This limit covers all persons who reside in the unit, including assisted and unassisted residents and any live-in aide.

Group Home Lease and HAP Contract [24 CFR 982.611]

There will be a separate HAP contract and lease for each assisted person living in a group home. For a group home the term "pro-rata portion" means that which is derived by dividing the number of persons in the assisted household by the total number of residents (assisted and unassisted) residing in the group home. The number of persons in the assisted household equals one assisted person plus any HACM-approved live-in Aide.

Group Home Rent and HAP Contract [24 CFR 982.613]

The rent to owner for an assisted person may not exceed the pro-rata portion of the reasonable rent for the group home.

The reasonable rent for a group home is determined in accordance with 982.503. In determining reasonable rent the HACM will consider whether sanitary facilities, and facilities for food preparation and service, are common facilities or private.

Maximum Subsidy

Unless there is a live-in aide, the family unit size is one bedroom. If there is a live-in aide, the live-in aide will be counted in determining the family unit size.

The payment standard for a person who resides in a group home is the lower of the payment standard for the family unit size; or the pro-rata portion of the payment standard for the group home size.

Utility Allowance

The utility allowance for each assisted person residing in a group home is the pro-rata portion of the utility allowance for the group home unit size.

Housing Quality Standards

The HACM will ensure that all group home units approved for the program are in compliance with all of the Housing Quality Standards for group homes as regulated in 24 CFR 982.614.

D. SHARED HOUSING [24 CFR 982.615]

Definitions

For purposes of Voucher Shared Housing the following definitions apply:

- a) *Common Space*: Space available for use by the assisted family and other occupants of the unit.
- b) *Individual Lease Shared Housing*: The type of shared housing in which the HACM enters into a separate housing voucher contract for each assisted family residing in a shared housing unit.
- c) *Private Space*: The portion of the dwelling unit that is for the exclusive use of an assisted family.
- d) *Shared Housing*: A housing unit occupied by two or more families consisting of common space for shared use by the occupants of the units and (except in the case of a shared one-bedroom unit) separate private space for each assisted family.

Occupancy of a Shared Housing Unit

Participation in Shared Housing is voluntary on the part of the participant and the HACM has not set aside any Vouchers restricted to Shared Housing.

- a) Persons who are not assisted under the voucher program may reside in a Shared Housing unit.
- b) Except for a one-bedroom unit, the owner of a Shared Housing unit may reside in the unit, and a resident owner may enter into a Voucher contract with the Housing Authority. However, a Voucher holder may not be related to a resident owner.
- c) One or more assisted families may reside in a shared housing unit.
- d) The number of bedrooms in the private space of an assisted family initially must be the same as the number stated on the family's Voucher. *Note: Two separate families with two separate vouchers MAY NOT share a one-bedroom unit. A one-bedroom unit does not qualify for Shared Housing.*
- e) The HACM may approve a live-in aide to reside with a family in order to care for a person with a disability. The HACM 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.

Determining the Amount of Housing Assistance for Shared Housing

For purposes of computing the minimum rent on an assisted dwelling, the HACM will prorate the rent to the owner that is attributable by the family on the basis of a ration that is equal to the number of bedrooms stated on the Voucher divided by the number of bedrooms in the unit.

Example: The term "pro-rata portion" means the ration derived by dividing the number of bedrooms in the in the private space available for occupancy by a family by the total number of bedrooms in the unit. For example, for a family entitled to occupy three bedrooms in a five bedroom unit, the ratio would be 3/5.

The rent to owner for the family may not exceed the pro-rata portion of the reasonable rent for the shared housing dwelling unit. The reasonable rent must be in accordance with the guidelines set in the "owner Rents, Rent Reasonableness and Payment Standards" Chapter.

There will be a separate housing assistance payment contract and lease for each assisted family residing in a shared housing unit.

Payment Standard for Shared Housing

The payment standard for a family in a Shared Housing unit is determined by multiplying the dollar amount of the payment standard for the entire unit by a ration that is equal to the number of bedrooms stated on the family's Voucher divided by the number of bedrooms in the unit.

Utility Allowance for Shared Housing

The utility allowance for an assisted family living in shared housing is the pro-rata portion of the utility allowance for the shared housing unit.

Housing Quality Standards for Shared Housing

The HACM will ensure that all shared housing units approved for the program are in compliance with all of the Housing Quality Standards for shared housing as regulated in 24 CFR 982.618.

- a) *Applicability of Housing Quality Standards:* The entire dwelling unit must comply with the performance requirements and acceptability criteria of Housing Quality Standards. The Housing Authority will not approve a lease or execute a contract for shared Housing unless the unit, including the portion available for use by the assisted family under its lease, meets Housing Quality Standards.

- b) *Facilities Available to the Family:* The facilities available for use of each assisted family in Shared Housing under the family's lease must include (whether in the family's private space or in common space) a living room, a bathroom, and food preparation and refuse disposal facilities.
- c) *Space and Security:* The entire dwelling unit must provide adequate space and security for all its occupants (whether assisted or unassisted). Each unit must contain private space containing at least one bedroom for each assisted family, plus common space for shared use by occupants of the unit. The private space for each assisted family must contain at least one bedroom for each two persons in the family. (The two preceding sentences do not apply to the case of two individuals share a one-bedroom unit. However, in that situation, no other persons may occupy the unit.) In shared housing the living room cannot be used as a sleeping room. Common space must be appropriate for shared use by the occupants. If any members of the family are physically disabled (at the time of lease approval), the unit's common space and the family's private space must be accessible and usable by them.

E. COOPERATIVE HOUSING [24 CFR 982.619]

The HACM will approve a family living in cooperative housing if it is determined that assistance under the program will help maintain affordability of the cooperative unit for low-income families. The HACM will not approve assistance for a family in cooperative housing until the HACM has also determined that the cooperative has adopted requirements to maintain continued affordability for low-income families after transfer of a cooperative member's interest in a cooperative unit (such as a sale of the resident's share in a cooperative corporation).

The reasonable rent in cooperative housing is determined in accordance with "Owner Rents, Rent Reasonableness, and Payment Standards" chapter. For cooperative housing, the rent to owner is the monthly carrying charge under the occupancy agreement/lease between the member and the cooperative.

The carrying charge consists of the amount assessed to the member by the cooperative for occupancy of the housing. It includes the member's share of the cooperative's debt service, operating expenses, and necessary payments to cooperative reserve funds. However, the carrying charge does not include down-payments or other payments to purchase the cooperative unit, or to amortize a loan to the family for this purpose. Gross rent is the carrying charge plus any utility.

For a cooperative, rent adjustments are applied to the carrying charge as determined in "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

The lease and other appropriate documents will stipulate that the monthly carrying charge is subject to Housing Choice Voucher limitations on rent to owner. The housing assistance payment will be determined in accordance with the guidelines in "Owner Rents, Rent Reasonableness, and Payment Standards" chapter.

The HACM may approve a live-in aide to reside with the family to care for a person with disabilities. The HACM will 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. If the HACM approves a live-in aide, the live-in aide will be counted when determining the family unit size.

Housing Quality Standards

The HACM will ensure that all cooperative housing units approved for the program are in compliance with all of the Housing Quality Standards outlined in the "Housing Quality Standards and Inspections" chapter, and regulated by 24 CFR 982.401.

F. MANUFACTURED HOMES [24 CFR 982.620]

The HACM will permit a family to lease a manufactured home and space with assistance under the program. The HACM will not provide assistance for a family that owns the manufactured home and leases only the space.

Housing Quality Standards [24 CFR 982.621]

A manufactured home must meet all the HQS requirements outlined in the "Housing Quality Standards and Inspections" chapter and regulated by 24 CFR 982.401. In addition the manufactured home also must meet the following requirements:

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.

A manufactured 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 wind overturning and sliding.

Manufactured Home Space Rental [24 CFR 982.622]

The HACM does not provide assistance to families who the manufactured home but need to lease space.

CHAPTER 21

FAMILY UNIFICATION PROGRAM (FUP) INDEPENDENT LIVING SKILLS PROGRAM (ILSP)

The Family Unification Program is designed to re-unite families that because of the lack of decent and affordable housing have caused a separation of the family members, or the separation is imminent. The Program is administered through the Human Services Agency (HSA) and the Independent Living Skills Program (ILSP), and supported through the provisions of housing, by the HACM.

A. ISSUANCE OF VOUCHERS FOR FAMILY PARTICIPATION

- Specific allocations of Housing Choice Vouchers are designated for the Family Unification Program (FUP) and the Independent Living Skills Program (ILSP). The project will be coded to indicate exclusive use for the FUP and ILSP. The FUP Vouchers are allocated as Targeted Funding. The ILSP Families are given a local preference.
- There is a limit of families admitted under the FUP targeted funding, according to the allocated number by HUD.
- Eligibility for assistance in the FUP and ILSP is determined by designated agency or using the HUD admissions criteria. Housing Choice Voucher eligibility criteria will not differ from traditional criteria and will be verified by the HACM, except in certain cases indicated below under *Selection and Exceptions*.
- HSA, ILSP, and the HACM may designate liaison personnel to deal with the day-to-day matters involving the Programs.
- HSA and ILSP will, through close coordination with the HACM, furnish the name, or names of the family or families, selected to receive a Housing Choice Voucher. The initial announcement of selection, to the HACM, can be verbally transmitted but must be verified in writing on HSA referral form or ILSP stationary to the HACM, within 72 hours of the verbal notification. A Housing Choice Voucher application and an eligibility packet will be completed by the family with the help of HSA or Independent Living Skills Program staff and will be attached to the written referral verification.
- This HACM will continually update the HSA Liaison Person and the liaison person for ILSP as to the extent of utilization of the designated FUP Vouchers, so as not to exceed the designated number of vouchers within the program.

B. SELECTION OF FAMILIES AND EXCEPTIONS

Selection of the designated family/families for assistance will be generally handled in accordance with current policy as established in this Administrative Plan, with the following exceptions:

- If the Housing Choice waiting list is closed, it will be reopened for acceptance of FUP/ILSP applications only. FUP/ILSP applications will be marked and listed for this funding program.
- HSA and ILSP will interview and review each family's case before being referred to the HACM for participation in Programs.
- HSA will monitor each family under their program for a minimum of six (6) months once subsidy has begun for the family.
- HSA will be responsible to disclose to the HACM any information regarding family member's criminal and illegal drug activity.

HACM may accept FUP, families referred by HSA, who have had within the last 3 years illegal drug activity, violent criminal activity, or criminal activity, as long as the family is meeting the HSA criteria and HACM's criteria under the FUP. The exception are families in which a member is subject to a lifetime sex offender registration requirement or has been a sex offender, or in which a member was evicted in the last three years from federally assisted housing for drug crimes.

Violence issues and criminal activity issues will be reviewed on a case-by-case basis by the Housing Choice Voucher Department. The HACM will make determinations based on the health, safety, and peaceful enjoyment of residents and other HUD criteria.

Note: Families referred by the ILSP Program come under the same eligibility criteria for illegal drugs, criminal history, as stated in previous chapters of this administration plan. The above paragraphs and paragraphs below refer only to families referred by HSA, unless otherwise indicated.

- HSA will be responsible for obtaining a clean drug test at least 30 days from the FUP family member prior to FUP application being submitted for those families who are under CPS monitoring due to illegal drug activity.
- HSA will be responsible for the family enrolling in drug diversion classes, alcohol rehabilitation classes and anger management classes, if the case remains open with their department.

- HSA will notify the HACM when the family's case has closed with Child Protective Services within 5 business days of occurrence.
- HSA will notify HACM when any family composition or income changes take place with the removal of a child or adult through Child Protective Services within 5 business days of occurrence, for families where the change is at least of 30 days or more duration.
- HACM has the right to refuse the additional family member due to previous illegal drug activity or criminal activity or other eligibility criteria as indicated in this Plan. HACM may request anger management classes or drug and/or alcohol rehabilitation classes in order for the family member to be added.
- All names of families referred to the HACM by HSA will be compared with those families already on the Housing Choice Voucher waiting list. Any family on the HACM's Housing Choice Voucher waiting list that matches with the HSA's list must be assisted in order of their position on the waiting list in accordance with HACM admission policies. All waiting list preferences will apply.
- FUP families currently on the waiting list will always have priority over those families referred by HSA who are not on the waiting list. (This does not pertain to ILSP families.)
- Applicants for the FUP/ILSP will be assisted by the HACM with housing assistance only when a FUP Voucher is available. All other FUP/ILSP applicants will remain on the FUP waiting list by order of date and time.
- Client file folders will be marked for immediate visual identification.
- Computer system will include "Family Unification" as Program Feature for tracking purposes.
- FUP Families cannot take their voucher to another PHA jurisdiction at the time they receive their initial Voucher until one year after participation in the Housing Choice Program, and completed their HSA Plan, or ILSP Plan. The HSA family also must transfer to a PHA that administers a FUP Program. The ILSP family may transfer to another jurisdiction that does not administer a FUP Program.

C. SPLIT OF HOUSEHOLD

- Any split of family members in the household will result in the FUP Voucher staying with the adult family member who retains the children.
- If the children are split between two adult household members, the HACM will make the final decision of which family shall keep the FUP Voucher, based on the criteria

set forth in this administrative plan. Another Voucher will NOT be issued to the remaining family.

- In the case all children are taken from the home through CPS, the adult remaining in the home may keep the voucher as long as they adhere to all the rules and regulations of the Housing Choice Voucher Program, including advising the HACM of the removal of the children from the home in the time allotted. At the time of the annual re-examination, the family will receive a smaller payment standard according to the current size of the family.

D. SUPPORTIVE SERVICES

In addition to the supportive services that the HACM will provide:

- FUP families will receive in-home monitoring off and on while the case remains open with CPS.
- ILSP families will receive supportive services from the ILSP program through their close monitoring processes while the case remains open.

Chapter 22

FAMILY SELF-SUFFICIENCY PROGRAM

A. PROGRAM OBJECTIVE

The objective of this HACM's Family Self-Sufficiency (FSS) program is to assist low-income families in becoming economically independent of government assistance. This objective is met through the integration of the Section 8 Existing Housing Assistance Payments Program with other public and private benefit programs to meet the specific self-sufficiency needs of low-income families. Components of the FSS Program include job development and training, personal and career counseling, childcare, transportation, and housing.

B. PROGRAM COORDINATION

The HACM's Self-Sufficiency Coordinator is responsible for the day-to-day operations of the Program. The Coordinator works closely with the Program Coordinating Committee (PCC), which consists of representatives from local agencies and businesses that assist in carrying forth the objectives of the Program.

C. ELIGIBILITY FOR PARTICIPATION

In addition to meeting Section 8 Program Participant requirements, prospective FSS participants must also meet the following criteria:

1. Effective the date of participation in the FSS Program, live within the HACM's jurisdiction for a minimum of 12 months;

Exceptions are: job opportunities in other areas, education, illness in family. Verification required.

2. Agree to cooperate with all FSS program requirements, including case management;
3. Agree to follow their Action Plan, developed in consultation with the Self-Sufficiency Coordinator, in meeting their individual plan to become self-sufficient.

D. OUTREACH EFFORTS

This HACM will attempt to utilize the following methods to notify current Section 8 certificate and voucher program participants of the availability and advantages of participating in the FSS Program:

1. Written notification to all existing program participants.
2. Mail outs approximately 3 months to all existing program participants.
3. Written notification to current participants from another housing authority's jurisdiction who are utilizing the portability feature of the Section 8 certificate and voucher programs and who are relocating to the HACM's jurisdiction.
4. Brochures provided to current program participants during their annual reexamination interview.

E. PRIORITIZATION OF APPLICANTS

FSS applicants will be prioritized in the following order:

1. The date and time in which the preliminary application is received.
2. The length of time the applicant has been a program participant in the Section 8 Program.
3. For up to 50% of the applicants who are admitted to the FSS Program, the HACM may assist any applicant without regard to the prioritization method for the following families:

Section 8 Existing Program participants who are currently enrolled in any one of the following educational programs: GAIN, ROP, Community Colleges, State Colleges, or other job training programs designed to prepare a participant for a specific career.

F. DEVELOPMENT OF ACTION PLANS

Each FSS participant shall sign a FSS Contract of Participation and complete an individual Action Plan within 30 days of acceptance into the FSS Program. The Action Plan shall be developed in consultation with the Self-Sufficiency coordinator and shall outline the specific goals and objectives necessary for the family to achieve economic self-sufficiency.

G. PORTABILITY

Any program participant selected for the FSS Program who is an incoming portable shall be absorbed by this HACM.

Current participants in the FSS Program may utilize the Section 8's portability feature only if the family has been a participant of the FSS program for at least 12 months.

FSS participants requesting to utilize the portability feature of the Section 8 Program shall be advised of the following options available to both the program participant and the receiving Housing Authority:

1. The FSS participant can request to remain in the FSS program as long as the distance from the new location would not hinder the participant's ability to meet their contractual obligations under the FSS Program.
2. The receiving Housing Authority can elect to absorb the FSS participant into their program, if such a program is available in the receiving Housing Authority's jurisdiction.
3. The FSS program participant can request to be released from the FSS Contract of Participation and relinquish all funds accumulated in the participant's escrow account.

H. PROGRAM MONITORING

Participants shall meet with the Self-Sufficiency Coordinator as often as necessary to evaluate progress towards goals and objectives listed in the Action Plan. The Coordinator will assist participants in linking up to available services. Participation in the FSS Program shall continue so long as the family fulfills their FSS contract and the family meets all eligibility requirements relative to the Section 8 Program.

I. FSS PROGRAM TERMINATION

Self-Sufficiency participants who breach their FSS contract and fail to work towards the goals and objectives of their individual Action Plan may be terminated from further participation in the FSS Program. In the case of FSS program termination, the family's Section 8 certificate or voucher will not be terminated as long as they are eligible for the Section 8 Program.

If an FSS participant violates FSS guidelines as set forth in the FSS Contract of Participation and is terminated from the FSS Program, grievance procedures for informal hearings as outlined in the Administration Plan apply.

J. PROGRAM COORDINATING COMMITTEE

The FSS Program Coordinating Committee will consist of the local GAIN, Private Industry Department, Human Services Agency, Employment Department, Legal Services, Community Action Agency, Merced College, Merced Adult School, Regional Occupational Program, a FSS participant, City of Merced elected official and other appropriate agencies. This committee will meet quarterly.

K. ESCROW ACCOUNTS

This HACM will establish individual escrow accounts for FSS families. Internal reporting procedures assures continual coordination between the FSS Program Coordinator, Section 8 Director, and Financial Officer. All FSS participants are told they must report all changes of income and family composition immediately.

The reporting requirements and the handling of the escrow accounts are outlined below:

1. When a new participant enters into a Contract of Participation, the FSS Coordinator will forward applicable information to the assigned FSS Section 8 eligibility specialist, who will contact the Finance Department by memo.
2. The Section 8 Department will complete the Contract of Participation with the income information and return this document to the FSS Coordinator.
3. The Board of Commissioners' Resolution #93-42 specifically states that at least once annually the FSS participants will receive a report of their escrow account balances. The Finance Department will be responsible for verification of escrow account amounts, and on a quarterly basis a report of escrow account balances will be provided to the FSS Coordinator, and mailed to each FSS participant who has an escrow account balance.
4. The Board of Commissioners' Resolution #93-43 states that the escrow account may not be accessed by the FSS participant until the Contract of Participation is completed and the individual has successfully completed the FSS Program. In accordance with HUD regulations the participant and family members must be completely off of all public assistance for a minimum of one year in order to receive their escrow account balance.

Escrow account calculations are based on earned income increases from the effective date of the Contract of Participation. Escrow credit for low, but not very low income, families is based upon 50% of median income limit and result in a higher credit than under the previous guidelines.

Family Self-Sufficiency Policies are in place in the FSS Action Plan regarding escrow account loans.

CHAPTER 23 Project-Based Vouchers

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 twenty-five percent (25%) of the units in any project) are also discussed.

Part VIII: Determining Rent to Owner. This part describes how the initial rent to owner is determined, and how rent will be re-determined throughout the life of the HAP Contract. Rent reasonableness requirements are also discussed.

Part IX: Payments to Owner. This part describes the types of payments owners may receive under this program.

PART I: GENERAL REQUIREMENTS

23-I.A. OVERVIEW [24 CFR 983.5] The project-based voucher (PBV) program allows HACM, which already administers a tenant-based voucher program under an annual contributions contract (ACC) with HUD, to operate a PBV program using up to twenty percent (20%) of its voucher program budget authority and attach the funding to specific units rather than using it for tenant-based assistance [24 CFR 983.6].

HACM will only operate a PBV program consistent with its Annual Plan, and the goal of deconcentrating poverty and expanding housing and economic opportunities [42 U.S.C. 1437f(o)(13)].

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” (AHAP) or a HAP Contract, HACM is not required to reduce the number of these units under HAP Contract if the amount of budget authority is subsequently reduced. It is noted that while the number of units does not need to be reduced, HAP Contracts cannot be renewed if more than twenty percent (20%) of the base allocation is utilized for PBV. HACM, however, is responsible for determining the amount of budget authority that is available for project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC [24 CFR 983.6].

23-I.B. TENANT-BASED VS. PROJECT-BASED VOUCHER ASSISTANCE [24 CFR 983.2]

Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, HACM policies for the tenant-based voucher program contained in this administrative plan also apply to the PBV program and its participants.

23-I.C. RELOCATION REQUIREMENTS [24 CFR 983.7]

Any persons displaced as a result of implementation of the PBV program will 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. HACM will not use voucher program funds to cover relocation costs, except that HACM 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

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relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes also will 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 HACM to ensure the owner and any representatives of the owner, such as a property manager, comply with these requirements.

23-I.D. EQUAL OPPORTUNITY REQUIREMENTS [24 CFR 983.8]

HACM, owners, and property managers 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, HACM will comply with HACM Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR 903.7(o).

PART II: PBV OWNER PROPOSALS

23-II.A. OVERVIEW

In this document, HACM will;

- Describe the procedures for owner or owner's designee for submission of PBV proposals:
- Describe HACM selection of PBV proposals:
- Explain how HACM will determine that PBV proposals comply with HUD program regulations and requirements:
- Describe how proposals comply with the cap on the number of PBV units per project:
- Describe how units meet site selection standards.

23-II.B. OWNER PROPOSAL SELECTION PROCEDURES [24 CFR 983.51]

HACM will select PBV proposals in accordance with the selection procedures in this HACM Administrative Plan. HACM will select PBV proposals by either of the following two methods.

- HACM request for PBV Proposals. HACM may solicit proposals by using a Request For Proposals (RFP) to select proposals on a competitive basis in response to HACM request. HACM 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.
- HACM selection of Proposal 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

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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 LIHTC's have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date.

Solicitation and Selection of PBV Proposals [24 CFR 983.51(b) and (c)]

HACM procedures for selecting PBV proposals are designed and operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by HACM.

HACM Request for Proposals for Rehabilitated and Newly Constructed Units. HACM will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in one of the following newspapers:

- Merced Sun Star
- Modesto Bee

In addition, HACM will post the RFP and proposal submission and selection procedures on its website (<http://www.merced-pha.com>). HACM will publish its notice at least once in the newspapers and trade journals mentioned above. The notice will specify the number of units HACM estimates that it will be able to assist under the funding HACM is making available. Proposals will be due in HACM office by close of business no less than two weeks from the date of publication. In order for the proposal to be considered, the owner or owner's designee (hereinafter referred to as "owner") must submit the proposal to HACM by the published deadline date and time, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed. HACM will rate and rank proposals for **rehabilitated** and **newly constructed** housing using the following criteria:

- Owner experience and capability to build or rehabilitate housing as identified in the RFP;
- Extent to which the project furthers HACM 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

HACM Requests for Proposals for Existing Housing Units

HACM will advertise its request for proposals (RFP) for existing housing in at least one of the following newspapers:

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- Merced Sun Star
- Modesto Bee

In addition, HACM will post the notice inviting such proposal submission and the rating and ranking procedures on its electronic web site (www.merced-pha.com). The notice will specify the number of units HACM estimates that it will be able to assist under the funding HACM is making available.

The proposals will be evaluated using the following criteria:

- Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;
- Extent to which the project furthers HACM 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.

HACM Selection of Proposals Subject to a Previous Competition under a Federal, State, or Local Housing Assistance Program

HACM 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 (LIHTC) on an ongoing basis.

HACM may periodically advertise that it is accepting proposals, specifying the number of vouchers available for this purpose in one of the following newspapers:

- Merced Sun Star
- Modesto Bee

Proposals will be reviewed on a first-come first-served basis. HACM will evaluate each proposal on its merits using the following factors:

- Extent to which the project furthers HACM goal of de-concentrating poverty and expanding housing and economic opportunities; and
- Extent to which the proposal complements other local activities such as the redevelopment of a public housing site under the HOPE VI program, the HOME program, CDBG activities, Mental Health program, other

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development activities in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.

HACM-owned Units [24 CFR 983.51(e) and 983.59] If HACM submits a proposal for project-based housing that is owned or controlled by HACM, HACM will:

- Use an independent entity which meets HUD approval to perform Housing Quality Standards (HQS) inspections.
- Use an independent entity which meets HUD approval to determine rents and rent reasonableness.
- Obtain HUD approval for the services of these entities prior to selecting the proposal for HACM-owned housing. HACM will only compensate the independent entity, which is responsible for obtaining the services of an appraiser, from HACM ongoing administrative fee income (including amounts credited to the administrative fee reserve). HACM will not use other program receipts to compensate the independent entity and appraiser for their services. HACM, independent entity, and appraiser may not charge the family any fee for the appraisal or the services provided by the independent entity.

HACM Notice of Owner Selection [24 CFR 983.51(d)]

Within fifteen (15) days of HACM making a selection, HACM will notify the selected owner, in writing, of the owner's selection for the PBV program. HACM will also notify, in writing, all owners that submitted proposals that were not selected and advise such entities of the name of the selected owner.

In addition, HACM will publish its notice for selection of PBV proposals in the same newspapers and trade journals HACM used to solicit the proposals. The announcement will include the name of the owner and address of units selected for the PBV program. HACM will also post the notice of owner selection on its website.

HACM will make available to any interested party its rating and ranking sheets and the documents that identify HACM basis for selecting the proposal. These documents will be available for review by the public and other interested parties for one month after publication of the notice of owner selection. HACM will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner. HACM will make these documents available for review at HACM during normal business hours. The cost for reproduction of allowable documents will be thirty-five (35¢) per page.

23-II.C. HOUSING TYPE [24 CFR 983.52]

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HACM will 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 HACM selection, the units exist and substantially comply with HQS. "Substantially" is defined as any unit that has an accumulation of items that would cost less than \$1,000 and take less than one month's time to comply fully with HQS requirements. Units for which new construction or rehabilitation was started in accordance with PBV program requirements do not qualify as existing housing. HACM choice of housing type will be reflected when it solicits proposals.

Use of PBV in Cooperative Housing and Elevator Projects.

The Housing And Economic Recovery Act of 2008 (HERA) Section 2835(a)(1)(F)8(o)(13)(L) Allows PHAs to enter into PBV HAP contracts with respect to units in cooperative housing and in high-rise elevator projects.

23-II.D. PROHIBITION OF ASSISTANCE FOR CERTAIN UNITS

Ineligible Housing Types [24 CFR 983.53]

HACM will 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 or pads; cooperative housing; and transitional housing. In addition, HACM will not attach or pay PBV assistance for a unit occupied by an owner and HACM will not select or enter into an AHAP or enter into a HAP Contract for a unit occupied by a family ineligible for participation in the PBV program.

Subsidized Housing [24 CFR 983.54]

HACM will 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 HACM could attach assistance to a unit subsidized with Section 236 interest reduction payments);
- A Section 202 project for non-elderly with disabilities;

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- 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 determined by HUD or HACM, in accordance with HUD requirements.

23-II.E. SUBSIDY LAYERING REQUIREMENTS [24 CFR 983.55]

HACM will provide PBV assistance only in accordance with HUD subsidy layering regulations [24 CFR 4.13] and other requirements. The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits. HACM will submit the necessary documentation to HUD for a subsidy layering review. HACM will not enter into an AHAP Contract or a HAP Contract until HUD (or an independent entity approved by HUD) has conducted any required subsidy layering review and determined that the PBV assistance is in accordance with HUD subsidy layering requirements. Subsidy layering reviews are not required for projects that have undergone a review conducted by the applicable state or local agency for funding on the project. The HAP Contract will contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP Contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

23-II.F. CAP ON NUMBER OF PBV UNITS IN EACH PROJECT

Twenty-Five Percent (25%) per Project Cap [24 CFR 983.56(a)] In general, HACM may not select a proposal to provide PBV assistance for units in a project or enter into an AHAP 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 twenty-five percent (25%) of the number of dwelling units (assisted or unassisted) in the project. Section 2835(a)(1) of HERA defines a "Project" to mean a single building, multiple contiguous buildings or multiple buildings on contiguous parcels of land.

Exceptions to Twenty-Five Percent (25%) per Project Cap [24 CFR 983.56(b)]

Exceptions are allowed and PBV units are not counted against the twenty-five percent (25%) per project cap if:

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- The units are in a single-family project, defined by HUD as any project with one to four units;
- The units are *excepted units* in a multifamily project because they are specifically made available for elderly or disabled families or families receiving supportive services (also known as *qualifying families*).

Supportive Services

The types of supportive services offered to families for a project to qualify for the exception are those intended to promote self-sufficiency, including:

- Outreach;
- Case management, counseling;
- Health care, psychiatric and mental health care, substance abuse treatment;
- Life skills, parenting skills;
- Child care, transportation, housing search assistance, budgeting;
- Employment assistance, job training/placement;
- Education, vocational opportunities.

Supportive services do not have to be provided at the project site. When supportive services are provided, whether or site or not, the following conditions apply:

The statement of family responsibility in the lease must contain the family's obligation to participate in the designated service program. Failure of the family to comply is good cause to terminate the family from the program.

Participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers is not required as a condition of living in an excepted unit. HACM will ensure that only families receiving supportive services and complying with the service requirements are assisted. To qualify, a family must have at least one member receiving at least one qualifying supportive service. HACM will not require participation in medical or disability-related services other than drug and alcohol treatment in the case of current abusers as a condition of living in an excepted unit, although such services may be offered. If a family at the time of initial tenancy is receiving, and while the resident of an excepted unit, has received, FSS supportive services or any other supportive services as defined above, 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. HACM will monitor the excepted family's continued receipt of supportive services and take appropriate action regarding those families that fail without good cause to complete their supportive services requirement. Monitoring will be

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accomplished by requiring the owner to provide quarterly reports on the family's participation and confirming this information by interviewing the tenant at the annual re-examination.

HACM will provide PBV assistance for the following types of excepted units – units limited to use by “qualifying families”:

Units in a multifamily project specifically made available for elderly or disabled families; Units for families receiving supportive services.

Elderly, disabled, and families receiving supportive services are all “qualifying families”.

Promoting Partially-Assisted Projects [24 CFR 983.56(c)]

HACM is not setting a cap on the number of PBV units assisted per project beyond the twenty-five percent (25%) cap for non-excepted units.

23-II.G. SITE SELECTION STANDARDS

Compliance with PBV Goals, Civil Rights Requirements, and HQS Site Standards [24 CFR 983.57(b)]

HACM will not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an AHAP Contract or HAP Contract for units on the site, unless HACM has determined that PBV assistance for housing at the selected site is consistent with the goal of de-concentrating poverty, replacement housing and expanding housing and economic opportunities. The standard for de-concentrating poverty and expanding housing and economic opportunities is consistent with the Agency Plan under 24 CFR 903 and this Administrative Plan.

In addition, prior to selecting a proposal, HACM will 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(I).

It is HACM's goal to select sites for PBV housing that provide for de-concentrating poverty, replacement housing and expanding housing and economic opportunities. In complying with this goal HACM may limit approval of sites for PBV housing in census tracts that have family poverty concentrations of twenty percent (20%) or less.

HACM will grant exceptions to the twenty percent (20%) standard where HACM determines that the PBV assistance will complement other local redevelopment activities designed to de-concentrate poverty and expand housing and economic opportunities in census tracts with poverty concentrations greater than twenty percent (20%), such as sites census tracts where:

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The proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, or Renewal Community;

The concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

The proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

New market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

There has been an overall decline in the poverty rate within the past five years;
or

There are meaningful opportunities for educational and economic advancement.

Existing and Rehabilitated Housing Site and Neighborhood Standards [24 CFR 983.57(d)]

HACM will not enter into an AHAP for units that will be rehabilitated, nor execute a HAP Contract for existing units 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;

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- 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 HACM 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.

23-II.H. ENVIRONMENTAL REVIEW [24 CFR 983.58]

HACM's activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The *responsible entity* (i.e., County of Merced) is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). HACM will not enter into an AHAP Contract nor enter into a HAP Contract until it has complied with the environmental review requirements.

In the case of existing housing, the County of Merced, 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. HACM will not enter into an agreement to enter into a HAP Contract or a HAP contract with an owner, and HACM, the owner, and its contractors

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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. HACM will supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. HACM requires the owner to carry out mitigating measures required by the County of Merced (or HUD, if applicable) as a result of the environmental review.

PART III: DWELLING UNITS

23-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.

23-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, cooperative housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program. The physical condition standards at 24 CFR 5.703 do not apply to the PBV program.

Lead-based Paint [24 CFR 983.101(c)] The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, apply to the PBV program.

23-III.C. HOUSING ACCESSIBILITY FOR PERSONS WITH DISABILITIES

Housing will 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. HACM will 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, will 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)

23-III.D. INSPECTING UNITS

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Pre-selection Inspection [24 CFR 983.103(a)] HACM will examine the proposed site before the proposal selection date. If the units to be assisted already exist, HACM will inspect all the units before the proposal selection date, and will determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. HACM, however, will not execute the HAP Contract until the units fully comply with HQS.

Pre-HAP Contract Inspections [24 CFR 983.103(b)]

HACM will inspect each contract unit before execution of the HAP Contract. HACM will not enter into a HAP Contract covering a unit until the unit fully complies with HQS.

Turnover Inspections [24 CFR 983.103(c)]

Before providing assistance to a new family in a contract unit, HACM will inspect the unit. HACM will not provide assistance on behalf of the family until the unit fully complies with HQS.

Annual Inspections [24 CFR 983.103(d)]

At least annually during the term of the HAP Contract, HACM will inspect a random sample, consisting of at least twenty-percent (20%) of the contract units in each project to determine if the contract units and the premises are maintained in accordance with HQS. The sample will be selected at random. A database of the units will be maintained which can be exported to Excel. This software program has a Random Number Generation Tool that will allow twenty-percent (20%) of the total units to be selected at random. Turnover inspections are not counted toward meeting this annual inspection requirement.

If more than twenty-percent (20%) of the annual sample of inspected contract units in a project fails the initial inspection, HACM will re-inspect one-hundred percent (100%) of the contract units in the project.

Other Inspections [24 CFR 983.103(e)]

HACM will 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. HACM will take into account complaints and any other information coming to its attention in scheduling inspections.

HACM will conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and will conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violations of HQS.

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In conducting HACM supervisory quality control HQS inspections, HACM will include a representative sample of both tenant-based and project-based units.

Inspecting HACM-owned Units [24 CFR 983.103(f)]

In the case of HACM-owned units, the inspections will be performed by an independent agency designated by HACM and approved by HUD. The independent entity will furnish a copy of each inspection report to HACM and to the HUD San Francisco field office. HACM will 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 HACM-owner.

PART IV: REHABILITATED AND NEWLY CONSTRUCTED UNITS

23-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.

23-IV.B. AGREEMENT TO ENTER INTO HAP CONTRACT In order to offer PBV assistance in rehabilitated or newly constructed units, HACM will enter into an agreement to enter into an AHAP Contract with the owner of the property. The Agreement will be in the form required by HUD [24 CFR 983.152(a)].

In the AHAP, the owner agrees to develop the PBV contract units to comply with HQS, and HACM agrees that, upon timely completion of such development in accordance with the terms of the Agreement, HACM will enter into a HAP Contract with the owner for the contract units [24 CFR 983.152(b)].

Content of the Agreement [24 CFR 983.152(c)]

At a minimum, the HACM will 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

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apply to units under the Agreement. If applicable, any required work item resulting from these requirements will 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 will include the rehabilitation work, write up and, where determined necessary by HACM, specifications and plans. For new construction units, the description will include the working drawings and specifications.
- Any additional requirements for quality, architecture, or design over and above HQS.

Execution of the AHAP [24 CFR 983.153] The AHAP will be executed “promptly” after HACM notice of proposal selection to the selected owner. HACM, however, will not enter into the AHAP with the owner until the subsidy layering review is completed. Likewise, HACM will not enter into the AHAP until the environmental review is completed and HACM has received environmental approval. Promptly, in this case, requires the selected owner to have completed the necessary reviews for the project and be ready to enter into an AHAP within one year from the date of notification that the project is awarded PBV assistance.

HACM has the option to grant up to two six-month extensions to this one year limit provided the owner can demonstrate that progress is being made and that the project will go to AHAP within the extended time frame.

23-IV.C. CONDUCT OF DEVELOPMENT WORK

Labor Standards [24 CFR 983.154(b)] If an AHAP covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner’s contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. HACM will monitor compliance with labor standards.

Equal Opportunity [24 CFR 983.154(c)] The owner must comply with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations at 24 CFR part 135. The owner must also comply with federal equal employment opportunity requirements.

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Owner Disclosure [24 CFR 983.154(d) and (e)] The AHAP and HAP Contracts 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 AHAP and HAP Contracts or HUD regulations.

23-IV.D. COMPLETION OF HOUSING

The AHAP will specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The AHAP will 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 HACM in the form and manner required by HACM:

- Owner certification that the work has been completed in accordance with HQS and all requirements of the AHAP;
- Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing; and
- Certificate of Occupancy (for new construction) or Final Building Permit cards (for rehabilitation projects) from the County of Merced.

HACM Acceptance of Completed Units [24 CFR 983.156]

Upon notice from the owner that the housing is completed, HACM will inspect the housing to determine if has been completed in accordance with the AHAP, including compliance with HQS and any additional requirements imposed under the AHAP. HACM also will determine if the owner has submitted all required evidence of completion.

If the work has not been completed in accordance with the AHAP, HACM will not enter into the HAP Contract.

If HACM determines the work has been completed in accordance with the AHAP and that the owner has submitted all required evidence of completion, HACM will submit the HAP Contract for execution by the owner and must then execute the HAP Contract.

PART V: HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

23-V.A. OVERVIEW

HACM will 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

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units leased and occupied by eligible families during the HAP Contract term. The HAP Contract will be in the form required by HUD [24 CFR 983.202].

23-V.B. HAP CONTRACT REQUIREMENTS

Contract Information [24 CFR 983.203]

The HAP Contract will 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 project;
- The number of contract units in each project, 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 twenty-five percent (25%) per project cap, which will be set-aside for occupancy by qualifying families; 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]

HACM will not enter into a HAP Contract until each contract unit has been inspected and HACM has determined that the unit complies with Housing Quality Standards (HQS).

For existing housing, the HAP Contract will be executed "promptly" after the HACM selects the owner proposal and inspects the housing units. "Promptly", in this case, means that the owner must be ready and willing to sign the HAP Contract within two (2) months from the date HACM has completed HQS inspections, found the units in compliance, and has notified the owner of its selection decision.

For newly constructed or rehabilitated housing, the HAP Contract will be executed after HACM has inspected the completed units, determined that the units have been completed in accordance with the AHAP, and the owner furnishes all required evidence of completion. Also, for rehabilitated or newly constructed housing, the HAP Contract will be executed within two months of Adopted by Board of Commissioners on July 19, 2011

HACM determining that the units have been completed in accordance with the AHAP, all units meet HQS, and the owner has submitted all required evidence of completion.

Term of HAP Contract [24 CFR 983.205]

HACM will enter into a HAP Contract with an owner for an initial term of no less than one year and no more than fifteen (15) years.

The term of all PBV HAP Contracts will be negotiated with the owner on a case-by-case basis within HUD parameters.

At the time of the initial HAP contract or any time before expiration of the HAP Contract, HACM may extend the term of the contract for an additional term of up to fifteen (15) years if HACM determines an extension is appropriate to continue providing affordable housing for low-income families. 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.

Contracts or contract extensions may not exceed fifteen years cumulatively. A PHA must determine that the extension of the contract is appropriate to achieve long-term affordability of the housing or to expand housing opportunities.

When determining whether or not to extend an expiring PBV contract, HACM will consider several factors including, but not limited to:

- The cost of extending the contract and the amount of available budget authority;
- The condition of the contract units;
- The owner's record of compliance with obligations under the HAP Contract and lease(s);
- Whether the location of the units continues to support the goals of de-concentrating poverty and expanding housing opportunities; and
- Whether the funding could be used more appropriately for tenant-based assistance.

Termination by HACM [24 CFR 983.205(c)]

The HAP Contract will provide that the term of HACM's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by HACM in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP Contract. If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the

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full term of the HAP Contract, the HACM may terminate the HAP Contract by notice to the owner. The termination will 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 HACM. In this case, families living in the contract units must be offered tenant-based assistance.

Remedies for HQS Violations [24 CFR 983.207(b)]

HACM will 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 HACM determines that a contract does not comply with HQS, HACM 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 Chapter 10.

23-V.C. AMENDMENTS TO THE HAP CONTRACT

Substitution of Contract Units [24 CFR 983.206(a)]

HACM will amend the HAP Contract to substitute a different unit, if the unit has the same number of bedrooms in the same project, is HQS compliant, and meets all PBV requirements for a previously covered contract unit. Before any such substitution can take place, HACM will inspect the proposed unit and determine the reasonable rent for the unit.

Addition of Contract Units [24 CFR 983.206(b)] At HACM's discretion and subject to the restrictions on the number of dwelling units that can receive PBV assistance per project and on the overall size of HACM's PBV program, a HAP Contract may be amended during the three-year period following the execution date of the HAP Contract to add additional PBV units in the same project. This type of amendment is subject to all PBV program requirements except that a new PBV proposal is not required.

HACM will consider adding contract units to the HAP Contract when HACM determines that additional housing is needed to serve eligible low-income families.

Circumstances may include, but are not limited to:

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- 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.

**23-V.D. HAP CONTRACT YEAR, ANNIVERSARY AND EXPIRATION DATES
[24 CFR 983.206(c) and 983.302(e)]**

The HAP Contract year is the period of 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.

**23-V.E. OWNER RESPONSIBILITIES UNDER THE HAP
[24 CFR 983.209]**

When the owner executes the HAP Contract, the owner certifies that at such execution and at all times during the term of the HAP Contract:

- All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;
- The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP Contract and the leases;
- Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by HACM, 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;

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- 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.

23-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 HACM and in the lease with each assisted family. In addition, maintenance, replacement and redecoration must be in accordance with the standard practice for the project as established by the owner. HACM may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in the RFP, AHAP Contract and the HAP Contract. These requirements must be in addition to, not in place of, compliance with HQS.

HACM will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. HACM will specify any special design standards or additional requirements in the invitation for PBV proposals, the AHAP Contract, and the HAP Contract.

Vacancy Payments [24 CFR 983.352(b)]

Vacancy Payments will be paid to the owner in accordance with the terms of the HAP Contract.

PART VI: SELECTION OF PBV PROGRAM PARTICIPANTS

23-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.

23-VI.B. ELIGIBILITY FOR PBV ASSISTANCE [24 CFR 983.251(a) and (b)]

HACM will select families for the PBV program from those who have applied for admission to the voucher program. A separate PBV Waiting List will be maintained. Eligibility for admission will be determined at the commencement of PBV assistance.

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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 HACM, 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 HACM's collection and use of family information regarding income, expenses, and family composition [24 CFR 5.230]. An applicant family also must meet HUD requirements related to current or past criminal activity. In addition families who will reside in "Excepted" units must meet the appropriate criteria as a "qualified" family.

HACM will determine an applicant family's eligibility for the PBV program in accordance with the policies in Chapter 2.

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 HACM 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 will be placed on HACM's waiting list. Once the family's continued eligibility is determined (HACM may deny assistance to an in-place family for the grounds specified in 24 CFR 982.552 and 982.553), the family will be given an absolute selection preference and HACM 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.

23-VI.C. ORGANIZATION OF THE WAITING LIST

[24 CFR 983.251(c)]

HACM will use separate waiting lists for the tenant-based Housing Choice Voucher Program and the PBV Program.

23-VI.D. SELECTION FROM THE WAITING LIST

[24 CFR 983.251(c)]

Applicants who will occupy units with PBV assistance will be selected from HACM's waiting list. HACM will place families referred by the PBV owner on its PBV waiting list when the waiting list is open.

Income Targeting [24 CFR 983.251(c)(6)]

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At least seventy-five percent (75%) of the families admitted to HACM's tenant-based and project-based voucher programs during HACM fiscal year from the waiting list will 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, HACM must first refer families who require such features to the owner.

Preferences [24 CFR 983.251(d)]

HACM will use the same selection preferences that are used for the tenant-based voucher program. HACM provides an absolute selection preference for eligible in-place families as described in Section 23-VI.B. All preferences that apply to the Housing Choice Voucher Program also apply to the PBV program or for particular PBV projects or units. When vacancies in PBV units of a specific size (i.e., number of bedrooms) or excepted units, HACM will select only qualified families of the correct and family composition size according to HACM's subsidy standards for those units in the correct order from the waiting list. If HACM has projects with more than twenty-five percent (25%) 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 HACM will give preference to such families when referring families to these units [24 CFR 983.261(b)].

23-VI.E. OFFER OF PBV ASSISTANCE

Refusal of Offer [24 CFR 983.251(e)(3)]

HACM is prohibited from taking, and will not take, 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 HACM'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]

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Family Briefing

When a family accepts an offer for PBV assistance, HACM will give the family an oral briefing. The briefing will include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, HACM will provide a briefing packet that explains how HACM 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, HACM will 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 8). In addition, HACM will 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

HACM will 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 1).

Violence Against Women Act (VAWA)

No applicant for the PBV program who has been a victim of domestic violence, dating violence, or stalking shall be denied admission into the program if they are otherwise qualified.

An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

HACM may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence or stalking to family members or others without terminating the assistance or evicting victimized lawful occupants.

There is no limitation on the ability of HACM to terminate assistance for other good cause unrelated to the incident or incidents of domestic violence, dating violence or stalking, other than the victim may not be subject to a "more demanding standard" than non-victims. There is no prohibition on HACM terminating assistance if it "can demonstrate an actual and imminent threat to

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other tenants or those employed at or providing service to the property if that tenant's (victim's) assistance is not terminated."

Any protections provided by law which give greater protection to the victim are not superseded by these provisions.

Definitions

The same definitions of "domestic violence," "dating violence," and "stalking," and of "immediate family member" are provided in Sections 606 and 607. While definitions of domestic and dating violence refer to standard definitions in the Violence Against Women Act, the definition of stalking provided in Title VI is specific to the housing provisions.

These are:

1. *Domestic Violence* – [As defined in Section 40002 of VAWA 1994] which states as follows: SEC 40002(a)(6) – "DOMESTIC VIOLENCE" - The term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
2. *Dating Violence* – [As defined in Section 40002 of VAWA 1994] which states as follows: SEC 40002(a)(8) – "DATING VIOLENCE" - The term "dating violence" means violence committed by a person - (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - (i) The length of the relationship.
 - (ii) The type of relationship.
 - (iii) The frequency of interaction between the persons involved in the relationship.
3. *Stalking* – means - (A) (i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and (ii) to place under surveillance with the intent to kill, injure, harass or intimidate another person; and (B) in the course of, or as a result of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to –
 - (i) that person;
 - (ii) a member of the immediate family of that person; or

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(iii) the spouse or intimate partner of that person; ...

Immediate Family Member - means, with respect to a person – (A) a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or (B) any other person living in the household of that person and related to that person by blood or marriage.

23-VI.F. OWNER SELECTION OF TENANTS

The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection [24 CFR 983.253(b)].

Leasing [24 CFR 983.253(a)]

During the term of the HAP Contract, the owner must lease contract units to eligible families that are selected and referred by HACM from HACM's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on HACM's subsidy standards.

Filling Vacancies [24 CFR 983.254(a)]

The owner must promptly notify HACM of any vacancy or expected vacancy in a contract unit. After receiving such notice, HACM will make every reasonable effort to refer promptly a sufficient number of families for the owner to fill such vacancies.

The HACM and the owner will make reasonable efforts to minimize the likelihood and length of any vacancy.

The owner must notify HACM in writing (mail, fax, or e-mail) within seven (7) calendar days of learning about any vacancy or expected vacancy.

HACM will make every reasonable effort to refer families to the owner within fifteen (15) 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, HACM will 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.

HACM will provide the notice to the owner within fifteen (15) days of the 120th day of the vacancy. Unless the owner can give adequate reason for HACM not to

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reduce the number of contract units within fifteen (15) days of the date of HACM's notice, the amendment to the HAP Contract will be effective the 1st day of the month following the date of HACM's notice.

23-VI.G. TENANT SCREENING [24 CFR 983.255]

HACM Responsibility

HACM is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy.

HACM will not conduct screening to determine a PBV applicant family's suitability for tenancy unless the applicant is to move into a HACM-owned or managed unit. HACM may deny applicants based on such screening. HACM will provide the owner with an applicant family's current and prior address (as shown in HACM records) and the name and address (if known by HACM) of the family's current landlord and any prior landlords.

HACM will inform owners of their responsibility to screen prospective tenants. Upon request, owners may request and HACM will provide specific information about the family being considered for tenancy. HACM will provide the following information:

- The family's current address as provided by the Applicant; and
- The name and address, if known, of the owner/landlord of the family's current and prior places of residence. HACM will respond only to specific questions asked by owners and only when HACM has documentation to confirm the accuracy of the information being provided. HACM will provide applicant families a description of its policy on providing information to owners and give the same types of information to all owners.

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. The owner must notify HACM in writing within fifteen (15) days when rejecting an applicant and give the grounds for such rejection.

PART VII: OCCUPANCY

23-VII.A. OVERVIEW

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After an applicant has been selected from the waiting list, determined eligible by the HACM, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit may begin.

23-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.

HACM may review the owner's lease for compliance with state or local law.

Lease Requirements [24 CFR 983.256(c)]

The lease for a PBV unit must specify all of the following information:

- The names of the owner and the tenant;
- The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- The term of the lease (initial term and any provision for renewal);
- The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;
- A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and
- The amount of any charges for food, furniture, or supportive services.

Tenancy Addendum [24 CFR 983.256(d)]

The tenancy addendum in the lease must state:

- The program tenancy requirements;
- The composition of the household as approved by HACM (the names of family members and any HACM-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.

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Initial Term and Lease Renewal [24 CFR 983.256(f) and 983.257(b)]

The initial lease term must be for at least one year. Upon expiration of the lease, an owner may renew the lease, refuse to renew the lease for “good cause”, or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, HACM will 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 HACM a copy of all changes.

The owner must notify HACM 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 HACM and in accordance with the terms of the lease relating to its amendment. HACM will re-determine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The re-determined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

Owner Termination of Tenancy [24 CFR 983.257]

With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Chapter 14 and 24 CFR 982.310). In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

Non-Compliance with Supportive Services Requirement [24 CFR 983.257(c)]

If a family is living in a project-based unit that is excepted from the twenty-five percent (25%) per project cap on project-basing because of participation in a supportive services program (e.g., Family Self-Sufficiency), and the family fails to complete its supportive services requirement without good cause, such failure is grounds for lease termination by the owner.

Tenant Absence from the Unit [24 CFR 983.256(g) and 982.312(a)]

The owner may specify in the lease a maximum period of tenant absence from the unit that is shorter than the maximum period permitted by HACM 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.

Security Deposits [24 CFR 983.258]

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The owner may collect a security deposit from the tenant. The security deposit must not exceed the following:

- Unfurnished Unit: Two months contract rent (this includes any amount labeled as last month's rent)
- Furnished Unit: Three months contract rent (this includes any amount labeled as last month's rent)

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. HACM has no liability or responsibility for payment of any amount owed by the family to the owner.

23-VII.C. MOVES

Overcrowded, Under-Occupied, and Accessible Units [24 CFR 983.259]

If HACM determines that a family is occupying a unit that is too small or too big, based on HACM'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, HACM will notify the family and the owner within fifteen (15) days of HACM's determination of the family's need to move. HACM 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 project;
- PBV assistance in another project; and
- Tenant-based voucher assistance.

If HACM offers the family a tenant-based voucher, HACM will 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 HACM).

When HACM offers a family another form of assistance that is not a tenant-based voucher, the family will be given thirty (30) calendar days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not

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move out within this thirty-day time frame, HACM will terminate the housing assistance payments at the expiration of this thirty-day period.

HACM may make exceptions to this thirty-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

Family Right to Move [24 CFR 983.260]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to HACM. If the family wishes to move with continued tenant-based assistance, the family must contact HACM to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, HACM will offer the family the opportunity for continued tenant-based assistance, in the form of a Housing Choice Voucher. If a voucher is not immediately available upon termination of the family's lease in the PBV unit, HACM will give the family priority to receive the next available voucher.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the Housing Choice Voucher assistance.

23-VII.D. EXCEPTIONS TO THE OCCUPANCY CAP [24 CFR 983.261]

HACM will not pay housing assistance under a PBV HAP Contract for more than twenty-five percent (25%) of the number of dwelling units in a project unless the units are [24 CFR 983.56]:

- In a single-family project;
- Specifically made available for elderly or disabled families; or
- Specifically made available for families receiving supportive services as defined by HACM. 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 HACM 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 percent (25%) per project cap exception (e.g., the family does not

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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, and HACM will cease paying housing assistance payments on behalf of the non-qualifying family.

If the family is moving to a non-excepted PBV unit, the family will have sixty (60) days in which to complete the move. If the family will move with a Housing Choice Voucher, as is likely to be the case with a non-elderly or non-disabled surviving spouse, then the term of the voucher will apply. HACM may grant extensions if the family can demonstrate good cause as outlined in Chapter 8, of this Administrative Plan.

If the family fails to vacate the unit within the established time, the unit must be removed from the HAP Contract. It is possible for the HAP Contract to be amended to substitute a different unit in the project in accordance with program requirements; or the owner terminates the lease and evicts the family. HACM will terminate 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.

PART VIII: DETERMINING RENT TO OWNER

23-VIII.A. OVERVIEW

The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP Contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP Contract term. During the term of the HAP Contract, the rent to owner is re-determined at the owner's request in accordance with program requirements, and at such time that there is a five percent or greater decrease in the published FMR.

23-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 HACM, 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)]

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For certain tax credit units, the rent limits are determined differently than for other PBV units. In general, 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. Under provisions of the Housing and Economic Recovery Act of 2008, PHA's are permitted to use the higher section 8 rent for a tax credit unit if the LIHTC rent is less than the amount that would be permitted under Section 8. HACM will follow the rules and regulations promulgated by HUD and in effect at the time the HAP Contract is executed.

Definitions

A **qualified census tract** is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least fifty percent (50%) of households have an income of less than sixty percent (60%) of Area Median Gross Income (AMGI), or where the poverty rate is at least twenty-five percent (25%) 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 unit size (i.e., number of bedrooms) in the project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Use of FMRs, Exception Payment Standards, and Utility Allowances [24 CFR 983.301(f)]

When determining the initial rent to owner, HACM will use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When re-determining the rent to owner, HACM will use the most recently published FMR and the utility allowance schedule in effect at the time of re-determination. HACM will not use an earlier FMR for initial rent determination or for re-determinations. Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

Redetermination of Rent [24 CFR 983.302]

HACM will re-determine the rent to owner upon the owner's request or when there is a five percent (5%) or greater decrease in the published FMR.

Rent Increase

If an owner wishes to request an increase in the rent to owner from HACM, it must be requested sixty (60) days prior to the annual anniversary of the HAP Contract and include the requested amount of rent being proposed. HACM will 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.,

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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).

HACM will not approve 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 will not receive any retroactive increase of rent for any period of noncompliance.

Rent Decrease

If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner will be decreased regardless of whether the owner requested a rent adjustment.

Notice of Rent Change

The rent to owner is re-determined by written notice by HACM to the owner specifying the amount of the re-determined rent. HACM 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.

HACM will provide the owner with at least thirty (30) days written notice of any change in the amount of rent to owner.

HACM-owned Units [24 CFR 983.301(g)]

For HACM-owned PBV units, the initial rent to owner and the annual re-determination of rent at the anniversary of the HAP Contract are determined by the independent entity approved by HUD. HACM will use the rent to owner established by the independent entity.

23-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 will not exceed the reasonable rent for the unit as determined by HACM.

When Rent Reasonable Determinations are Required

HACM will re-determine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

- There is a five percent (5%) 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;

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- HACM approves a change in the allocation of responsibility for utilities between the owner and the tenant;
- The HAP Contract is amended to add or substitute a different contract unit in the same project; or
- There is any other change that may substantially affect the reasonable rent.

How to Determine Reasonable Rent

The reasonable rent of a unit receiving PBV assistance will be determined by comparison to rent for other comparable unassisted units. When making this determination, HACM will 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 are receiving project-based assistance. The analysis will show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and will be retained by HACM. The comparability analysis may be performed by HACM 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 will not have any direct or indirect interest in the property.

HACM-owned Units

For HACM-owned units, the amount of the reasonable rent will be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity will provide a copy of the determination of reasonable rent for HACM-owned units to HACM 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, HACM may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

23-VIII.D. EFFECT OF OTHER SUBSIDY AND RENT CONTROL

In addition to the rent limits discussed in Section 23-VIII.B above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition,

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certain types of subsidized housing are not even eligible to receive PBV assistance (see Section 23-II.D).

Other Subsidy [24 CFR 983.304]

At its discretion, HACM may reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants, or other subsidized financing.

For units receiving assistance under the HOME program, rents will 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 will not exceed the subsidized rent (basic 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;
- A project receiving low-income housing tax credits;
- Any other type of federally subsidized project specified by HUD.

Combining Subsidy

Rent to owner will 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 also may be subject to rent control or other limits under local, state, or federal law.

PART IX: PAYMENTS TO OWNER

23-IX.A. HOUSING ASSISTANCE PAYMENTS [24 CFR 983.351]

During the term of the HAP Contract, HACM will make housing assistance payments to the owner in accordance with the terms of the HAP Contract. During the term of the HAP Contract, payments will 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 will be paid to the owner on or about the first day of the month for which payment is due, unless the owner and HACM agree on a later date. HACM will 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

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housing assistance payment by HACM 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.

23-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; 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.

23-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 HACM in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in HACM 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 HACM 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 HACM. The owner must immediately return any excess payment to the tenant.

Tenant and HACM 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 HACM. Likewise, HACM is responsible only for making the housing assistance payment to the owner in accordance with the HAP Contract. HACM is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. HACM will 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, HACM will 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.

23-IX.D. OTHER FEES AND CHARGES [24 CFR 983.354]

Meals and Supportive Services

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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 will not be included in the rent to owner, nor will the value of meals and supportive services be included in the calculation of the reasonable rent. Non-payment of such charges, however, 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 24
Veterans Affairs Supportive Housing [24 CFR 982]
HUD-VASH

INTRODUCTION

The HUD-VASH program combines HUD HCV rental assistance for homeless veterans with case management and clinical services provided by the Department of Veterans Affairs (VA) at its medical centers in the community. Ongoing VA case management, health, and other supportive services will be made available to homeless veterans.

HUD-Veterans Affairs Supportive Housing (HUD-VASH) program will be administered in accordance with regular HCV program requirements (24 CFR Section 982), except as described below.

A. FAMILY ELIGIBILITY AND SELECTION

The HACM will instead receive referrals from the Veterans Affairs Medical Center (VAMC). Written documentation of these referrals must be maintained in the tenant file at the HACM.

B. INCOME ELIGIBILITY

The HACM must determine income eligibility for HUD-VASH families in accordance with 24 CFR 982.201 or a low income family eligible for VASH and who needs the voucher as a reasonable accommodation.

Families who Annual Income exceeds the applicable income limit will be denied admission.

C. INITIAL TERM OF THE VOUCHER

HUD-VASH vouchers are issued with an initial search term of 60 days. Extensions, suspensions, and progress reports will remain under the policies of the HACM's Administrative Plan, but will apply after the minimum 120-day initial search term.

D. INITIAL LEASE TERM

Under the HCV program, voucher participants must enter into an initial lease with the owner for one year, unless a shorter term would improve housing opportunities for the tenant and the shorter term is a prevailing market practice.

E. PORTABILITY OF HUD-VASH VOUCHERS

An eligible HUD-VASH voucher holder wishing to exercise portability to another jurisdiction must choose a location where there is a VAMC to provide case management services with an available VASH voucher or portability is not allowed.

- (1) Portability Moves Where Case Management is provided by the Initial PHA (HACM) Partnering VAMC.

If the family moves under portability, and the initial PHA'S (HACM) partnering VAMC will still be able to provide the necessary case management services due to its proximity to the partnering VAMC, the receiving PHA must process the move in accordance with the portability procedures of 24 CFR 982.355. If the receiving PHA has VASH vouchers available, they may absorb or administer the voucher. Both the VAMC and Initial PHA (HACM) must be in support of the family's relocation before approving the family to port.

- (2) Portability Moves Where Case Managements is provided by the Receiving PHA's Partnering VAMC.

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's (HACM) partnering VAMC to provide case management services, the VAMC must first approve the family's relocation and then determine that the HUD-VASH family could be served by another VAMC that is participating in VASH and the receiving PHA must have a HUD-VASH voucher available for this family. In these cases, the families must be absorbed by the receiving PHA either as a new admission (if the family did not participate in the initial PHA's (HACM) VASH program) or as a portability move-in (after initial leasing in the initial PHA's (HACM) jurisdiction). When the VASH voucher is absorbed by the receiving PHA, the initial PHA's (HACM) HUD-VASH voucher will become available to lease to a new HUD-VASH eligible family, as determined by the partnering VAMC, and the absorbed family will count toward the number of HUD-VASH slots awarded to the receiving PHA.

F. **DENIAL OF ASSISTANCE**

At initial intake, the VASH family can only be determined ineligible due to:

- Income limitations or
- Having any member of the household subject to a lifetime registration requirement under a state sex offender registration program.

The HACM cannot deny assistance to a Veteran that previously participated in a Public Housing program (Housing Choice Voucher or Conventional) and still owes money.

In any case where the HACM decides to deny assistance to the family, the HACM must give the family written notice which states:

- The reason(s) for the denial of assistance
- The family's right to request an informal review to be held before denial of assistance.
- The date by which a request for an informal review must be received by the HACM.

Once the applicant becomes a resident, the resident must follow all of the HACM rules including the family obligations (See Chapter 15 entitled “Denial or Termination of Assistance”).

As a condition of HCV rental assistance, a HUD-VASH eligible family must receive the case management services from the VAMC. Therefore, a HUD-VASH family’s HCV assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC. However, a VAMC determination that the participant family no longer requires case management is not grounds for termination of assistance.

G. VASH VOUCHER ISSUANCE

Since VASH vouchers are for Homeless Veterans, the vouchers must always remain with the Veterans. In the case of divorce or separation, the voucher remains with the Veteran.

If the Veteran dies, the voucher would remain with the remaining members of the tenant family. The family will continue to utilize the HUD-VASH voucher.

Once the Family has begun participation in the VASH Program, and the Department of Veterans Affairs Medical Center has determined that the Family no longer requires case management, they will not be considered for termination of assistance. In such cases, the HACM will offer the Family continued assistance through one of its tenant-based HCV vouchers, in order to free up a VASH voucher for another eligible Family referred by the Department of Veterans Affairs Medical Center. If the Housing Authority has no tenant-based HCV voucher to offer the Family, the Family will retain their VASH voucher until such time as he HACM has an available tenant-based HCV voucher to offer the Family.

GLOSSARY

A. ACRONYMS USED IN THE HOUSING CHOICE VOUCHER (HCV) PROGRAM

AAF	Annual adjustment factor (published by HUD in the <i>Federal Register</i> and used to compute annual rent adjustments)
ACC	Annual contributions contract
ADA	Americans with Disabilities Act of 1990
AIDS	Acquired immune deficiency syndrome
BR	Bedroom
CDBG	Community Development Block Grant (Program)
CFR	Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as “the regulations”)
CPI	Consumer price index (published monthly by the Department of Labor as an inflation indicator)
EID	Earned income disallowance
EIV	Enterprise Income Verification
FDIC	Federal Deposit Insurance Corporation
FHA	Federal Housing Administration (HUD Office of Housing)
FHEO	Fair Housing and Equal Opportunity (HUD Office of)
FICA	Federal Insurance Contributions Act (established Social Security taxes)
FMR	Fair market rent
FR	Federal Register
FSS	Family Self-Sufficiency (Program)
FY	Fiscal year
FYE	Fiscal year end
GAO	Government Accountability Office
GR	Gross rent
HA	Housing authority or housing agency
HAP	Housing assistance payment
HCV	Housing choice voucher
HQS	Housing quality standards
HUD	Department of Housing and Urban Development
HUDCLIPS	HUD Client Information and Policy System

IPA	Independent public accountant
IRA	Individual retirement account
IRS	Internal Revenue Service
JTPA	Job Training Partnership Act
LBP	Lead-based paint
LEP	Limited English proficiency
MSA	Metropolitan statistical area (established by the U.S. Census Bureau)
MTCS	Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system)
MTW	Moving to Work
NOFA	Notice of funding availability
OGC	HUD's Office of General Counsel
OIG	HUD's Office of Inspector General
OMB	Office of Management and Budget
PASS	Plan to Achieve Self-Support
PHA	Public housing agency
PIC	PIH Information Center
PIH	(HUD Office of) Public and Indian Housing
PS	Payment standard
QC	Quality control
REAC	(HUD) Real Estate Assessment Center
RFP	Request for proposals
RFTA	Request for tenancy approval
RIGI	Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level)
SEMAP	Section 8 Management Assessment Program
SRO	Single room occupancy
SSA	Social Security Administration
SSI	Supplemental security income
SWICA	State wage information collection agency

TANF	Temporary assistance for needy families
TPV	Tenant protection vouchers
TR	Tenant rent
TTP	Total tenant payment
UA	Utility allowance
UFAS	Uniform Federal Accessibility Standards
UIV	Upfront income verification
URP	Utility reimbursement payment
VAWA	Violence Against Women Reauthorization Act of 2013

B. GLOSSARY OF SUBSIDIZED HOUSING TERMS

1937 ACT. The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.)

Administrative plan. The HUD required written policy of the HACM governing its administration of the Section 8 tenant-based programs. The Administrative Plan and any revisions must be approved by the HACM's board and a copy submitted to HUD as a supporting document to the HACM Agency Plan.

Absorption. In portability (under subpart H of this part 982): the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

Accessible. The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

Adjusted income. Annual income, less allowable HUD deductions and allowances.

Administrative fee. Fee paid by HUD to the PHA for administration of the program. See §982.152.

Administrative plan. The plan that describes PHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by the PHA's board and included as a supporting document to the PHA Plan. See §982.54.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual. Happening once a year.

Annual contributions contract (ACC). The written contract between HUD and a PHA under which HUD agrees to provide funding for a program under the 1937 Act, and the PHA agrees to comply with HUD requirements for the program.

Annual income. The anticipated total income of an eligible family from all sources for the 12-month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area exception rent. An amount that exceeds the published FMR. See 24 CFR 982.504(b).

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See *net family assets*.)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

Biennial. Happening every two years.

Bifurcate. With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

Budget authority. An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

Child. A member of the family other than the family head or spouse who is under 18 years of age.

Child care expenses. Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. A citizen or national of the United States.

Cohead. An individual in the household who is equally responsible for the lease with the head of household. A family may have a cohead or spouse but not both. A cohead never qualifies as a dependent. The cohead must have legal capacity to enter into a lease.

Common space. In shared housing, the space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of databases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type: see 24 CFR 982.606–609.

Contiguous MSA. In portability (under subpart H of part 982): An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type (see 24 CFR 982.619).

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

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

Dependent. A member of the family (except foster children and foster adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, cohead, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See *person with disabilities*.

Disallowance. Exclusion from annual income.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domicile. The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

Economic self-sufficiency program. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)). Also see 24 CFR 5.603(c).

Elderly family. A family whose head, cohead, spouse, or sole member is a person who is at least 62 years of age; two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

Elderly person. An individual who is at least 62 years of age.

Eligible family A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR. See also *family*.

Employer identification number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted as evidence of citizenship or eligible immigration status. See 24 CFR 5.508(b).

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or 30 percent of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than 30 percent of median income if HUD finds such variations are necessary due to unusually high or low family incomes. See 24 CFR 5.603.

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental

housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

Family.

The term "*family*" includes but is not limited to the following, **regardless of actual or perceived sexual orientation, gender identity, or marital status:**

- (1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person or any other single person; or
- (2) A group of person residing together and such group includes, but is not limited to:
 - (i) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
 - (ii) An elderly family;
 - (iii) A near-elderly family;
 - (iv) A disabled family;
 - (v) A displaced family; and
 - (vi) The remaining member of a tenant family

In addition, for categorizing family as defined above, the terms disabled family, elderly family and near-elderly family (per 24 CFR 5.403) are:

Disabled family means a family whose head (including co-head), spouse or sole member is a person with a disability.

Elderly family means a family whose head (including co-head), spouse or sole member is a person who is at least 62 years of age.

Near elderly family means a family whose head (including co-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 person, who are at least 50 years of age but below the age of 62, living together; or one or more person who are at least 50 years of age but below the age of 62.

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program (FSS program). The program established by a PHA in accordance with 24 CFR part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services (42 U.S.C. 1437u).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR 982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

Federal agency. A department of the executive branch of the federal government.

Foster child care payment. A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

Full-time student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended). See 24 CFR 5.603.

Funding increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gender identity. Actual or perceived gender-related characteristics.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type: see 24 CFR 982.610–614.)

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

HAP contract. The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing assistance payment. The monthly assistance payment by a PHA, which includes: (1) A payment to the owner for rent to the owner under the family's lease; and (2) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing agency (HA). See *public housing agency*.

Housing quality standards (HQS). The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The U.S. Department of Housing and Urban Development.

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed \$5,000.

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income for eligibility. Annual income.

Income information means information relating to an individual's income, including:

- All employment income information known to current or previous employers or other income sources
- All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law
- Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received
- Unearned IRS income and self-employment, wages, and retirement income
- Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps. See *person with disabilities*.

Initial PHA. In portability, the term refers to both: (1) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (2) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Institution of higher education. An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

Jurisdiction. The area in which the PHA has authority under state and local law to administer the program.

Landlord. Either the owner of the property or his/her representative, or the managing agent or his/her representative, as shall be designated by the owner.

Lease. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

Living/sleeping room. A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space. A bedroom or living/sleeping room must have at

least one window and two electrical outlets in proper operating condition. See HCV GB p. 10-6 and 24 CFR 982.401.

Local preference. A preference used by the PHA to select among applicant families.

Low-income family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence, and meets the HQS. (A special housing type: see 24 CFR 982.620 and 982.621.)

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

Mutual housing. Included in the definition of *cooperative*.

National. A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

Net family assets. (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

- In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income

distributed from the trust fund shall be counted when determining annual income under §5.609.

- In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. A person who is neither a citizen nor national of the United States.

Notice of funding availability (NOFA). For budget authority that HUD distributes by competitive process, the *Federal Register* document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Office of General Counsel (OGC). The General Counsel of HUD.

Overcrowded. A unit that does not meet the following HQS space standards: (1) Provide adequate space and security for the family; and (2) Have at least one bedroom or living/sleeping room for each two persons.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see CFR 985.3.

Participant (participant family). A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Payment standard. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Person with disabilities. *For the purposes of program eligibility.* A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

Portability. Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Private space. In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

Processing entity. The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the “processing entity” is the “responsible entity.”

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

Public assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

Public housing agency (PHA). Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Qualified family (under the earned income disallowance). A family participating in an applicable assisted housing program or receiving HCV assistance:

- Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;
- Whose annual income increases as a result of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or
- Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance--provided that the total amount over a six-month period is at least \$500.

Qualified census tract. With regard to certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

Receiving PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

Recertification. Sometimes called *reexamination*. The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining member of the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

Residency preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing and the Section 8 tenant-based assistance, project-based certificate assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended.

Section 214 covered programs. The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

Sexual orientation. Homosexuality, heterosexuality or bisexuality.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special housing type: see 24 CFR 982.615–982.618.)

Single person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person’s earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the PHA waiting list or without considering the applicant’s waiting list position.

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes, shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

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

State wage information collection agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. Stopping the clock on the term of a family’s voucher after the family submits a request for tenancy approval. If the PHA decides to allow extensions or suspensions of the voucher term, the PHA administrative plan must describe how the PHA determines whether to grant extensions or suspensions, and how the PHA determines the length of any extension or suspension. This practice is also called *tolling*.

Tax credit rent. With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Tenancy addendum. For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See *family rent to owner*.

Term of lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total tenant payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utilities. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical and sewer lines.

Very low-income family. A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Veteran. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

Violence Against Women Act (VAWA). Prohibits denying admission to the program to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher (housing choice voucher). A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list. A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

Waiting list admission. An admission from the PHA waiting list.

Welfare assistance. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, child care or other services for working families. For the FSS program (984.103(b)), *welfare assistance* includes only cash maintenance payments from federal or state programs designed to meet a family's ongoing basic needs, but does not include food stamps, emergency rental and utilities assistance, SSI, SSDI, or social security.

PROGRAM INTEGRITY ADDENDUM
[24 CFR 792.101 to 792.204, 982.54]

INTRODUCTION

The U.S. Department of HUD conservatively estimates that 200 million dollars is paid annually to program participants who falsify or omit material facts in order to gain more rental assistance than they are entitled to under the law. HUD further estimates that 12% of all HUD-assisted families are either totally ineligible, or are receiving benefits which exceed their legal entitlement.

The HACM is committed to assuring that the proper level of benefits is paid to all participating families, and that housing resources reach only income-eligible families so that program integrity can be maintained.

The HACM will take all steps necessary to prevent fraud, waste, and mismanagement so that program resources are utilized judiciously.

This Chapter outlines the HACM's policies for the prevention, detection and investigation of program abuse and fraud.

Note: All allegations of unauthorized persons, unreported income, or other program violations will be referred directly to the District Attorney's office for their investigation, prosecution, and/or repayment agreement amounts for both applicants, clients, and owners participating in or about to participate in the Program.

A. CRITERIA FOR INVESTIGATION OF SUSPECTED ABUSE AND FRAUD

Note: Applicants whose application is being reviewed for admittance to the program, and applicants who have been issued a voucher but have not initially leased up on the program are included, along with participants of the program, in this chapter. Wherever participating family is stated in this chapter, it includes an applicant family who is being processed for admittance to the HCV Program.

Under no circumstances will the HACM undertake an inquiry or an audit of an applicant or participating family arbitrarily. The HACM's expectation is that applicants and participating families will comply with HUD requirements, provisions of the certificate or voucher, and other program rules. The HACM staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the HACM has a responsibility to HUD, to the Community, and to eligible families in need of housing assistance, to monitor applicants/participants and owners for compliance and, when indicators of possible abuse come to the HACM's attention, to investigate such claims.

The HACM will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

1. Referrals, Complaints, or Tips. The HACM will follow up on referrals from other agencies, companies or persons which are received by mail, by telephone or in person, which allege that a family is in non-compliance with, or otherwise violating the family obligations or any other program rules. A copy of the allegation will be retained in a separate allegation file. The allegation will be forwarded to the District Attorney's office for their investigation.
2. Internal File Review. A follow-up will be made if HACM staff discovers (as a function of a certification or recertification, an interim redetermination, or a quality control review); information or facts which conflict with previous file data, the HACM's knowledge of the family, or is discrepant with statements made by the family.
3. Verification of Documentation. A follow-up will be made if the HACM receives independent verification or documentation, which conflicts with representations in the family's file (such as public record information or credit bureau reports, reports from other agencies).

B. STEPS THE HACM WILL TAKE TO PREVENT PROGRAM ABUSE AND FRAUD

The HACM management and staff will utilize various methods and practices (listed below) to prevent program abuse, non-compliance, and willful violations of program rules by applicants and participating families. This policy objective is to establish confidence and trust in the management by emphasizing education as the primary means to obtain compliance by families.

1. Program Orientation Session. Mandatory orientation sessions will be conducted by the HACM staff for all prospective program participants, either prior to or upon issuance of a voucher.
2. Participant Counseling. The HACM may provide participant counseling when needed to clarify any confusion pertaining to program rules and requirements.
3. Review and explanation of Forms. Staff will explain all required forms and review the contents of the signed forms at the orientation sessions. (Port ins are required to attend an orientation briefing, which may be a mini briefing rather than a group orientation briefing.) At recertification the family receives a copy of the signed forms, and may request an explanation at any time by staff.
4. Use of Instructive Signs and Warnings. Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse

C. STEPS THE HACM WILL TAKE TO DETECT PROGRAM ABUSE AND FRAUD

The HACM Staff will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families.

1. Quality Control File Reviews. During a fiscal year, participant's files will be reviewed. The amount reviewed will be according to the SEMAP requirement under the "universal" amount. A portion of the reviews will include initial certification and recertification files. Such reviews shall include, but are not limited to:
 - Assurance that verification of all income and deductions is present.
 - Changes in reported Social Security Numbers or dates of birth.
 - Authenticity of file documents.
 - Review of signatures for consistency with previously signed file documents.
 - All forms are correctly dated and signed.

2. Observation. The HACM Management and Occupancy Staff (to include inspection personnel) will maintain high awareness of circumstances, which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income.
3. Public Record Bulletins may be reviewed by Management and Staff.
4. State Wage Data Record Keepers. Inquiries to State Wage and Employment record keeping agencies as authorized under Public Law 100-628, the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits
5. Credit Bureau Inquiries. Credit Bureau inquiries may be made (with proper authorization by the participant) in the following circumstances:
 - At the time of final eligibility determination
 - When an allegation is received by the HACM wherein unreported income sources are disclosed.
 - When a participant's expenditures exceed his/her reported income and no plausible explanation is given.

D. THE HACM'S HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD

The HACM staff will encourage all participating families to report suspected abuse to HCV staff. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and placed in the participant's file. All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up. The HCV staff will not follow up on allegations which are vague or otherwise non-specific.

1. File Review. An internal file review will be conducted to determine:

If the subject of the allegation is a client of the HACM and, if so, to determine whether or not the information reported has been previously disclosed by the family.

It will then be determined if the HACM is the most appropriate authority to do a follow-up (more so than police or social services). Any file documentation of past behavior as well as corroborating complaints will be evaluated.

2. Conclusion of Preliminary Review. If at the conclusion of the preliminary file review there is/are fact(s) contained in the allegation which conflict with file data, and the fact(s) are independently verifiable, the HCV Director or HCV Manager will initiate an investigation with the District Attorney's Office to determine if the allegation is true or false.

E. OVERPAYMENTS TO OWNERS

If the owner has been overpaid as a result of fraud, misrepresentation or violation of the Contract, the HACM may terminate the Contract and arrange for restitution to the HACM and/or family as appropriate.

The HACM will make effort to recover any overpayments made as a result of owner fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the HACM or the tenant, as applicable.

Owners may be prosecuted for fraud through the District Attorney's office and also may be required to enter into Repayment Agreements through the District Attorney's office.

F. HOW THE HACM WILL INVESTIGATE ALLEGATIONS OF ABUSE AND FRAUD

If the HACM determines that an allegation or referral warrants follow-up, staff will forward the allegation to the HCV Director or HCV Manager to forward to the District Attorney's office. The District Attorney's office steps will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. (References to HACM below also include the District Attorney's office.)

- Credit Bureau Inquiries. In cases involving previously unreported income sources, a CBI inquiry may be made to determine if there is financial activity that conflicts with the reported income of the family.
- Employers and Ex-Employers. Employers or ex-employers may be contacted to verify wages which may have been previously undisclosed or misreported.
- Neighbors/Witnesses. Neighbors and/or other witnesses may be interviewed who are believed to have direct or indirect knowledge of facts pertaining to the HACM's review.
- Other Agencies. Investigators, caseworkers or representatives of other benefit agencies may be contacted.

- Public Records. If relevant, the HACM will review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are: real estate, marriage, divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, utility records and postal records.
- Interviews with Head of Household or Family Members. The HACM may discuss the allegation (or details thereof) with the Head of Household or family member by scheduling an appointment at the appropriate HACM office. A high standard of courtesy and professionalism will be maintained by the HACM staff person who conducts such interviews. Under no circumstances will inflammatory language, accusation, or any unprofessional conduct or language be tolerated by the management. If possible, an additional staff person will attend such interviews.
- Termination: In addition or in lieu of the interview with the Head of Household or Family Members, the HACM may begin proceedings to terminate the family from the Program and, in addition, may begin proceedings to prosecute the family. The family, of course, has the right to appeal the termination by requesting an Informal Review (applicant) or Informal Hearing (participant).

G. PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE HACM

Documents and other evidence obtained by the HACM during the course of an investigation will be considered "work product" and will either be kept in the participant's file, or in a separate "work file."

H. CONCLUSION OF THE HACM'S INVESTIGATIVE REVIEW

At the conclusion of the investigative review, the District Attorney's Office will report the findings to the HCV Director or HCV Manager. It will then be determined whether a violation has occurred, a violation has not occurred, or if the facts are inconclusive. (If the findings indicate a fraud case of more than \$20,000, the District Attorney's office will forward the case to the Inspector General's office for their review and possible prosecution.)

I. EVALUATION OF THE FINDINGS

If it is determined that a program violation has occurred, the HACM and the District Attorney's office will review the facts to determine:

1. The type of violation (procedural, non-compliance, fraud).

2. Whether the violation was intentional or unintentional.
3. What amount of money (if any) is owed by the family.
4. If the family is eligible for continued occupancy, or should be denied admission to the program.

J. ACTION PROCEDURES FOR VIOLATIONS WHICH HAVE BEEN DOCUMENTED

Once a program violation has been documented, the HACM will propose the most appropriate remedy based upon the type and severity of the violation. If the HACM determines that the violation whether procedural, non-compliance, or fraud occurred and that termination action needs to be taken, the HACM will do so in a timely manner.

The following examples are if the family **is allowed to remain on the program**.

1. **Procedural Non-compliance.** This category applies when the family "fails to" observe a procedure or requirement of the HACM.

Examples of non-compliance violations are:

Failure to appear at a pre-scheduled appointment.

Failure to return verification in time period specified by the HACM.

(a) Notice to the Family. In such cases a notice will be sent to the family which may contain one or more of the following:

- A description of the non-compliance and the procedure, policy or obligation which was violated.
- The date by which the violation must be corrected, or the procedure complied with.
- The action which will be taken by the HACM if the procedure or obligation is not complied with by the date specified by the HACM.
- The consequences of repeated (similar) violations.

2. **Procedural Non-compliance - Overpaid Assistance.** When the family owes money to the HACM for failure to report changes in income or assets, the HACM or the District Attorney's Office will issue a HAP Repayment Agreement and the

family will be notified in writing. This HAP Repayment Agreement will contain the following:

- A description of the violation and the date(s).
- Any amounts owed to the HACM.
- Monthly payments and due dates of payments.
- Consequence for failure to sign or make scheduled payments according to agreement.

If the family disagrees with the amount owing, they may request an informal hearing.

- (a) Participant Fails to Comply with HACM's and/or District Attorney's Notice. If the Participant fails to comply with the HACM's and/or District Attorney's notice, and a family obligation has been violated, the HACM will initiate termination of assistance and/or the District Attorney's office will proceed with prosecution.

3. **Intentional Misrepresentations.** When a participant falsifies, misstates, omits or otherwise misrepresents a material fact which results (or would have resulted) in an overpayment of housing assistance by the HACM, the HACM will evaluate whether or not:

- The participant had knowledge that his/her actions were wrong, and
- The participant willfully violated the family obligations or the law.

Knowledge that the action or inaction was wrong. This will be evaluated by determining if the participant was made aware of program requirements and prohibitions. The participant's signature on various certifications, briefing certificate, Personal Declarations, and other documents are adequate to establish knowledge of wrongdoing.

The participant willfully violated the law. Any of the following circumstances will be considered adequate to demonstrate willful intent:

- (a) An admission by the participant of the misrepresentation.
- (b) That the act was done repeatedly.
- (c) If a false name or Social Security Number was used.
- (d) If there were admissions to others of the illegal action or omission.

- (e) That the participant omitted material facts which were known to him/her (e.g., employment of self or other household member).
- (f) That the participant falsified, forged or altered documents.
- (g) That the participant uttered and certified to statements at an interim (re) determination which were later independently verified to be false.

4. **Dispositions of Cases Involving Misrepresentations.** In all cases of misrepresentations involving efforts to recover monies owed, the HACM may pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

- (a) Criminal Prosecution: If the HACM has established criminal intent, and the case meets the criteria for prosecution, the HACM will:
 - Review the case with the District Attorney, notify HUD's Inspector General's Office, and terminate rental assistance.
 - Have the District Attorney refer the case to HUD's Inspector General's Office and terminate rental assistance.
- (b) Administrative Remedies: The HACM and/or the District Attorney may:
 - Terminate assistance and demand payment of restitution in full.
 - Terminate assistance and execute a repayment agreement
 - Terminate assistance and pursue restitution through civil litigation/prosecution and/or report amount owed to the credit bureau.
 - Continue assistance at the correct level upon repayment of restitution in full.
 - Permit continued assistance at the correct level and execute a repayment agreement

Prior to the final determination of the proposed action, the HACM will consider:

- The duration of the violation and number of false statements.
- The family's willingness to cooperate, and to accept responsibility for his/her actions.

- The amount of money involved.
- The family's past history.
- Whether or not criminal intent has been established.
- The number of false statements.
- The seriousness of the violation and misrepresentation that occurred.