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# Housing Authority of the County of Merced

## Administrative Plan Housing Choice Voucher Program



**Revision Date: October 1, 2023**



## **CHAPTER 1**

### **STATEMENT OF POLICIES AND OBJECTIVES**

#### **24 CFR 982.54**

#### **OVERVIEW**

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which rectified the U.S. Housing Act of 1937 ("the Act"). The Act has been amended from time to time, and its requirements as they apply to the Section 8 Tenant-Based Assistance Program, and is described in and implemented throughout this Administrative Plan (unless otherwise noted, the same regulations and policies apply to the Project Base Voucher (PBV) program (see Chapter 23 of this Administrative Plan for details on PBV).

The Section 8 tenant- based programs are federally funded and administered for the County of Merced by the Housing Authority of the County of Merced (Authority) through its Housing Choice Voucher (HCV) Program office.

Administration of the HCV Program and the functions and responsibilities of the Authority staff shall follow the Authority Administrative Plan and the Department of Housing and Urban Development's (HUD), Housing Choice Voucher Code of Federal (CFR) Regulations, and as well as all Federal, State and local Fair Housing Laws and Regulations.

## **CHAPTER I**

### **I-I.A. MISSION STATEMENT**

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

### **I-I.B. VISION STATEMENT**

The Authority will be nationally recognized as an innovative agency and a leader in creating community partnerships that result in individuals and families having a hope for a better tomorrow.

### **I-I.C. LOCAL OBJECTIVES**

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

1. To ensure that units meet the Housing Quality Standards (HQS) and those 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 to the above, the Authority has set 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, socioeconomic, recreational and other human service needs.
3. To create positive public awareness and expand the level of family, owner, and community support in accomplishing the Authority's mission.
4. To attain and maintain a high level of standards and professionalism in the daily management of all program components.

5. To administer an efficient, high-performing agency through continuous improvement of the Authority's support systems and commitment to our employees and their development.
6. To encourage and promote the ability to be able to choose housing in area's that achieve de-concentration of extremely to very low-income families of all races and backgrounds.

The Authority makes every effort to keep program participants informed of the program rules and regulations, any changes to these rules, and to advise participants of how the program rules affect them.

### **I-I.D. THE ADMINISTRATIVE PLAN [24 CFR 982.54]**

HUD regulations at 24 CFR 982.54 define the policies that must be included in the administrative plan for carrying out the programs in a manner consistent with HUD requirements and local goals and objectives contained in the Authority's Agency Plan. The administrative plan is required by HUD. All issues related to the HCV program not addressed in this plan are governed by such federal regulations, HUD handbooks and guidebooks, notices, and other applicable law. The policies in this administrative plan have been designed to ensure compliance with the consolidated ACC and all HUD approved applications for program funding.

The Authority must adopt a written administrative plan that establishes local policies for administration of the program in accordance with HUD requirements. The administrative plan and any revisions of the plan must be formerly adopted by the Authority's Board of Commissioners or other authorized persons.

### **I-I.E. OVERVIEW and PURPOSE of the ADMINISTRATIVE PLAN**

The administrative plan states the Authority's policies on matters for which the Authority has discretion to establish local policies for carrying out the programs in a manner consistent with local goals and meet HUD requirements

The Authority must administer the program in accordance with this Administrative Plan.

The Authority is responsible for complying with all changes in HUD regulations pertaining to the programs it administers. If such changes conflict with this Administrative Plan, HUD regulations will have precedence. The Authority will revise the Administrative Plan as needed to comply with changes in HUD regulations. The original Administrative Plan and any changes must be approved by the Board of Commissioners of the agency, the pertinent sections included in the Agency Administrative Plan, and a copy provided to HUD.

### **I-I.F. Contents Of The Administrative Plan**

The administrative plan must be in accordance with HUD regulations found in 24 CFR 982.54 which define the policies that must be included in the administrative plan. It states Authority policy on matters for which the Authority has discretion to establish policy for and is intended to promote local housing objectives consistent with the intent of Federal housing legislation.

Applicable regulations and policies that must be included in the administrative plan include but are not limited to:

24 CFR Part 5:	General Program Requirements
24 CFR Part 8:	Nondiscrimination
24 CFR Part 35:	Lead Based Paint
24CFR Part982:	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 administrative plan states Authority policy for which the Authority has discretion to establish policies and is intended to promote housing objectives consistent with the intent of the Federal Housing Legislation.

HUD regulations at 24 CFR 982.54 define the policies that must be included in the administrative plan and is a supporting document to the Authority's Agency Plan.

Mandatory vs. Discretionary Policy:

- Mandatory policies are those driven by legislation, regulations, current handbooks, notices, and legal opinions, and
- Optional, non-binding guidance include guidebooks, notices that have expired and recommendations

The plan is made available for public review as required by 24 CFR 903.

### **I-I.G. HUD Requirements [24 CFR 982.52]**

The Authority must comply with HUD regulations and other HUD requirements for the program.

This Administrative Plan is set forth to define the Authority's local policies for operation of the housing programs in the context of Federal laws and HUD

regulations. All issues related to the HCV program not addressed in this document are governed by such Federal regulations. The Authority must comply with HUD memos, notices and guidelines published by HUD or other applicable law.

The policies in this administrative plan have been designed to ensure compliance with the Annual Consolidated Contract (ACC) and all HUD-approved applications for program funding.

### **I-I.H. TERMINOLOGY**

The Housing Authority of the County of Merced (HACM) is referred to as Authority throughout this administrative plan.

"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 relationship to landlords.

"Landlord" and "Owner" 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 "Section 8" program is also known as the Housing Choice Voucher Program.

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

"Failure to Provide" refers to all information requested by the Authority necessary in the administration of the program.

"Merger date" refers to October 1, 1999, which is the effective date of the merging of the Section 8 Certificate and Voucher program into the Housing Choice Voucher Program. See the Glossary for other terminology.

### **I-I.I. FAIR HOUSING [24 CFR 115.300]**

The 1968 Fair Housing Act and HUD require the Authority to affirmatively further civil rights and fair housing in all federally-assisted housing programs and requires that agencies administering housing related programs do so in a manner affirmatively to further the purposes of the "Act".

Fair housing Law refers to all fair housing laws at Federal, state, and local level. Federal laws require the Public Housing Authority's to treat all applicants and participants equally, and to provide the same opportunity to access services, regardless of background or family characteristics.

### **I-I.J. PURPOSE OF FAIR HOUSING [24 CFR 107.10]**

Laws and regulations have been established to carry out requirement that all action necessary and appropriate be taken to prevent discrimination on the basis of race, color, religion (creed), sex or national origin, age, familial status, and disability. Additionally, HUD regulations provide additional protections regarding sexual orientation, gender identity, and marital status. The Authority 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.

These regulations are intended to assure compliance with the established policy of the United States that the benefits under programs and activities of the Department which provide financial assistance, directly or indirectly, for the provision, rehabilitation, or operation of housing and related facilities are made available without discrimination based on race, color, religion (creed), sex or national origin. These regulations are also intended to assure compliance with the policy of this Department to administer its housing programs affirmatively, so as to achieve a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, religion (creed), sex or national origin.

#### **Authority Policy:**

It is the policy of the Authority to comply with all Federal, or applicable California state laws and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

The Authority shall not deny any family, individual or voucher holder the equal opportunity to apply for or receive assistance under the programs they administer on the basis of race, color, sex, religion, familial status, creed, national or ethnic origin (called protected classes), ancestry, age, familial or

marital status, disability or sex (including sexual orientation and gender identity/expression) or source of income. 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.

**I-I.K. AFFIRMATIVELY FURTHERING FAIR HOUSING: [PURPOSE C.F.R. § 5.150]**

The purpose of the Affirmatively Furthering Fair Housing (AFFH) regulations in C.F.R. § 5.150 through 5.180 is to provide program participants with an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination.

The regulations establish specific requirements for the development and submission of an Assessment of Fair Housing (AFH) by program participants (including local governments, States, and public housing agencies (PHAs), and the incorporation and implementation of that AFH into subsequent consolidated plans and PHA Plans in a manner that connects housing and community development policy and investment planning with meaningful actions that affirmatively further fair housing. A program participant's strategies and actions must affirmatively further fair housing and may include various activities, such as developing affordable housing, and removing barriers to the development of such housing, in areas of high opportunity; strategically enhancing access to opportunity, including through: Targeted investment in neighborhood revitalization or stabilization; preservation or rehabilitation of existing affordable housing; promoting greater housing choice within or outside of areas of concentrated poverty and greater access to areas of high opportunity; and improving community assets such as quality schools, employment, and transportation.

**Nondiscrimination:**

It is the practice of the Authority, to further its commitment by fully complying with applicable Civil Rights laws. The Authority will provide Federal, state, and local information to voucher holders regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the voucher holder's briefing packet and available upon request at the front desk.

Fair Housing posters are posted throughout the Authority offices, including within the lobby area and interview rooms. The equal opportunity logo will be used on

all outreach materials. Staff will attend local fair housing training, training sponsored by HUD and other local organizations to keep current with new developments.

Federal Regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as the Authority, can prohibit discrimination based on other factors.

The Authority will not discriminate because of race, color, sex, religion, familial status, age, disability or national origin (called "protected class").

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.

#### Authority Policy:

The Authority will also consider gender identify/expressions, marital status, ancestry, citizenship, genetic information, and source of income to be protected classes under California state law.

#### DISCRIMINATION COMPLAINTS:

If an applicant or participant believes that a family member or themselves, have been discriminated against by an owner or by someone at the Authority, the family should inform the Authority. The Authority will attempt to determine whether the complainant's claims are valid and if require corrective action to be taken.

The Authority is required to provide families with information on how to file a complaint [234 CFR 982.304].

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the Authority facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the Authority office in such a manner as to be easily readable from a wheelchair. The Authority offices are accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the California Relay Service or by utilizing the Telecommunications Device for the Deaf (TDD) Tele-Type (TTY) at 711 or 1-800-855-7100. The Authority makes this information available to families at voucher briefing appointments as part of the briefing packet.

The Authority will attempt to remedy discrimination complaints made against the Authority and investigate all allegations of discrimination.

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

- Provide written notice of the complaint to those alleged and inform the complainant that this notification was done.
- Investigate the allegations and provide the complainant and those alleged with findings and either an explanation of whether corrective action is warranted and if applicable, what the corrective action is.
- Keep records of all complaints, investigations, and corrective-actions

## **DISCRIMINATION INFORMATION FOR PERSONS WITH DISABILITIES**

### **I-I.L. DISABILITY and REASONABLE ACCOMMODATION**

It is unlawful and prohibited by the Fair Housing Act to refuse to make reasonable accommodation of rules, policies, practices, or services, when the accommodation(s) are deemed necessary to afford a person with a disability equal opportunity to the use and enjoyment of a program or dwelling, including public and common use areas.

#### **Authority Policy:**

The Authority will make every effort to provide reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a person with disabilities equal opportunity to use and enjoyment of a program a dwelling, including public and common use areas.

The Authority will ensure that persons with disabilities have full access to the programs and services it administers.

### **I-I.M. REQUESTS FOR ACCOMMODATION(S)**

Federal regulations stipulate that requests for accommodations will be considered as "reasonable" if they do not create an "undue financial and administrative burden" on the Authority, or result in a "fundamental alteration" (this is a modification that alters the nature of the program or service offered).

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

Persons with a disability must initiate and make their request known to the

Authority by asking for a specific change to a policy or practice as an accommodation of their disability before the Authority will treat a person differently than anyone else. The Authority policies and practices will be designed to provide assurances that persons with disabilities will be provided with a reasonable accommodation, that they may fully access and utilize the housing programs and related services.

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

The availability of requesting an accommodation will be made known by including a written clause to be included on documents that pertain to or could affect the status of their application and /or assisted housing.

This policy is intended to afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations described in this administrative plan at every level of assistance.

- To be eligible t for a reasonable accommodation, the requester must be an individual or family member listed in the household composition with a disability. If the disability is not apparent, the Authority is required to verify that the person requesting the accommodation has a permanent disability or is asking for a household member who is a person with a permanent disability and meets the definition of "disabled" as defined by the American Disabilities Act (ADA)., having 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 impairment.

### **1-I.N. REASONABLE ACCOMMODATIONS -VERIFICATION OF DISABILITY**

If the person claiming to be disabled does not have a disability that is apparent for the accommodation, nor known to the Authority, the Authority is required to verify the claim of being "disabled" with person who is knowledgeable the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable connection, or nexus, between the requested accommodation and the individual's disability.

Persons with disabilities may request a reasonable accommodation to participate in the informal review process and the Authority must consider such reasonable accommodation requests.

Authority Policy:

The Authority will consider the accommodation any time the family indicates that an accommodation is necessary whether or not a formal written request is submitted. The Authority will encourage as its preferred method for participants and applicants to submit all requests in written format (email or handwritten) but may not require either format.

**I-I.O. APPROVAL OR DENIAL of a REQUESTED ACCOMMODATION**

The Authority must approve a request for an accommodation if the following three (3) conditions are met:

- When a request is made by or on behalf of a person with a verified disability;
- When there is a disability-related need for the accommodation(s) requested;
- When the accommodation requested is a reasonable and would not impose an undue financial and administrative burden on the Authority, or fundamentally alter the nature of the Authority's HCV operations (to include any obligations to comply with HUD regulation requirements).

Requests for accommodations will be reviewed on a case-by-case basis, taking all factors into consideration as to the Authority's ability to accommodate the request and availability of alternative accommodations that would in effect, meet the family's disability related need. The Authority may elect to discuss and negotiate alternative approaches or request additional information from a family, and require the family to authorize verification of the need with the person who knowledgeable to verify such need.

Authority Policy:

Upon receipt of a request for an accommodation, the Authority will provide a response in writing within a reasonable time, confirming the request has been received and what actions have been taken to confirm the need for the accommodation.

In the event the Authority denies a request for an accommodation due to the request not being reasonable (undue financial or administrative burden etc.) the Authority will discuss with the family whether there are alternative options to

accommodate and address the family's disability related needs. If the family and the Authority fail to identify an alternative accommodation after discussion, the Authority will notify the family in writing of its determination within a reasonable time from the most recent discussion or communication with the family.

The Authority will not grant a reasonable accommodation that would allow the tenants to grow, use, otherwise possess, or distribute medical marijuana, even if in doing so such tenants are complying with state laws authorizing medical marijuana related conduct. The Authority will deny admission to those applicant households with individuals who are, at the time of consideration for admission, using medical marijuana. This is in accordance with the Quality Housing and Work Responsibility Act (QHWRA) of 1998 (42 U.S.C. 13661).

### **I-I.P. VERIFICATION OF DISABILITY**

When verifying a disability, the Authority will follow verification policies provided in Chapter 7 of this administrative plan. All information related to a person's disability will be treated with confidentiality. In addition to standard verification policies the following requirements apply to verification of a disability:

- Third party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third-party who is in a position to know about the individual's disability may provide verifications of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
- The Authority must request only information that is necessary to evaluate the disability and/or when requested, the need for accommodation. The Authority will not request information about the nature or extent of any person's disability.
- The Authority will not request medical records about a specific disability and may refuse documents containing such information. The Authority will place information related to the disability in a sealed envelope fastened in the hard file, marked as "confidential" when it is deemed necessary to retain in file.

- When the Authority receives confidential information pertaining to a person's diagnosis, treatment, or document describing the nature or severity of a disability, the Authority may dispose of such information once other information requested has been verified, the date of verification being received, name and address of the person knowledgeable and who completed the verification will be documented.

The Authority must verify that the person or family claiming to have a disability meets the preference and claim as defined in the Fair Housing Amendments Act of 1988, Section 504 of the 1973 Rehabilitation Act, and Americans with Disabilities Act.

Outreach efforts will include information of the Authority 504 Coordinator as well as other media and agencies listed in the Administrative Plan.

Any and all information which would lead one to determine the nature and/or severity of a person's disability, if kept must be secured in a separate sealed folder and marked "confidential" or returned to the family member after its use. The personal information in this folder must not be released except on an "as needed" basis in cases where an accommodation is under consideration.

All requests for access and granting of accommodations based on this information must be approved by the Director of Housing Programs.

### **I-I.Q. APPLYING FOR ADMISSION**

Persons who wish to apply for any of the Authority housing programs are required to register on the Authority website. Registration may be done at any time (whether a specific wait list is open or closed) by visiting [www.merced-pha.com](http://www.merced-pha.com). A valid email is required at time of registration. Individuals interested in applying must register using the online portal in order to access and complete pre-applications prior to applying for an open wait list program. Information will be made available in a Public Notice and posted on the Authority's website prior to a wait list opening or closing. Applicants are responsible for updating their account information as changes occur. Failure to update or keep information up to date in their applicant account may be selected in error and result in placement back on a wait list for being ineligible or have the preapplication cancelled if the Authority attempts to contact the applicant and applicant fails to respond.

Upon selection from a wait list, the Authority requires the applicant to complete a full housing program application. The Authority has discretion as to how it will communicate with applicants and participants whether by regular or portal email account, thru the U.S. Mail, or by telephone. It is recommended and encouraged

that applicants and participants frequently check their email account used to register their online account as this is the Authority's first method to communicate.

### Authority Policy:

The Authority's online portal to accept preapplications online is located on the website at [www.merced-pha.com](http://www.merced-pha.com). Hard-copy paper pre-applications and full application packets may be provided as a reasonable accommodation when being requested by a person with a disability.

Information provided by the family will be reviewed and verified by the Authority to determine eligibility.

For persons claiming to be disabled but who are not receiving Social Security Disability benefits will require verification of disability by a professional familiar with the person and nature of the disability who can certify the disability meets the definition as defined by the American Disabilities Act (ADA).

***Persons with a Disability:*** A full eligibility application will be made available in an accessible format upon request by a person with a disability.

### **I-I.R. AFFIRMATIVE OUTREACH and LIMITED ENGLISH PROFICIENCY (LEP)**

In accordance with 24 CFR 576.407, the Authority takes reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with the obligations contained in the Title VI of the Civil Rights Act of 1964 and all Executive orders to arrange free language assistance for persons with Limited English Proficiency (LEP).

An LEP individual is a person who does not speak English as their primary language and who has a limited ability to read, writes, speak, or understand English. This policy was developed to serve applicants, participants, and/or persons eligible for housing assistance.

The Authority has developed a Language Access Plan (LAP) to ensure its programs and services are accessible to person(s) with LEP.

### **I-I.S. TRANSLATION OF DOCUMENTS**

The Authority takes steps to ensure its documents used during any process are accessible to those who may have difficulty complying with the normal, standard PHA application process. This may include persons with disabilities, elderly persons, or persons with limited English proficiency. The Authority in determining

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

- The number of applicants and participants in the jurisdiction who don't speak English and speak other language(s).
- Estimated cost to Authority per client of translation of English written documents into the other language(s).
- The availability of local organizations to provide translation Services to non-English speaking families.
- Availability of bilingual staff to provide translation for non-English speaking families.

The Authority has bilingual staff and/or translation services that may be made available to assist non-English speaking families in languages that have been identified in accordance with the Authority's Language Access Plan (LAP).

Spanish has been identified as the language of the greater population to which the Authority serves.

### **I-I.T. MANAGEMENT ASSESSMENT OBJECTIVES**

The Authority operates its housing assistance programs with efficiency and can demonstrate to HUD and program auditors that the Authority uses its resources in a manner that reflects its commitment to quality and service.

The Authority is required by HUD to review random samples of tenant records annually to determine if information in the file records meets the program requirements. Additionally, HUD requires the Authority conduct quality control inspections of a sample of units to ensure Housing Quality Standard (HQS) compliance in accordance with [24 CFR Part 985].

The Authority policies and practices are consistent with the areas of measurement for HUD Section Eight Management Assessment Program (SEMAP) indicators outlined below:

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 Reexaminations
10. Correct Tenant Rent Calculations
11. Pre-Contract HQS Inspections
12. Annual HQS Inspections
13. Lease-up
14. Family Self-Sufficiency Enrollment/d Escrow Account Balance
15. Bonus Indicator De-concentration

Quality control reviews will be performed by the Authority by designated staff or other qualified person other than the person who performed the work, as required by HUD, for the following SEMAP factors:

- Selection from the wait list
- Rent reasonableness
- Determination of adjusted income
- HQS Enforcement
- HQS Quality Control

Annual sample of files and records will be drawn in an unbiased manner leaving a clear audit trail. The minimum sample size to be reviewed will relate directly to each factor and according to the size of the Authority's total program "universe" (HUD term).

#### **I-I.U. RECORDS FOR MONITORING AUTHORITY PERFORMANCE**

To demonstrate compliance with HUD and other pertinent regulations, the Authority 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 Authority operational procedures objectively and with accuracy, in accordance with SEMAP requirements, and internal supervisory audits.

In addition to the required SEMAP documentation, a designated staff will audit the following functions:

- Not less than five percent (5%) of reexaminations
- Not less than five percent (5%) of new applications

#### **I-I.V. PRIVACY RIGHTS [24 CFR 16.1]**

Applicants and participants, including all adults in the assisted household composition, are required to sign the HUD 9886 Authorization for Release of Information/Privacy Notice. This document incorporates the Federal Privacy Act

Statement and describes the conditions under which HUD and the Authority will release or obtain family information.

Authority Policy:

The Authority's policy regarding release of information is in accordance with state and local laws which may restrict the release of family information.

Any and all information which would lead one to determine the nature and/or severity of a person's disability, if kept, must be secured in a separate sealed folder and marked "confidential", returned to the family member after verified, or destroyed. Personal information in a s folder must not be shared without first obtaining authorization to release, signed by the person the information is about, and must not be released except on an "as needed" basis in cases where an accommodation is under consideration and never without a valid, current, signed authorization to release information.

All requests for access and granting of accommodations based on this information must be approved by the Director of Housing Programs.

The Authority's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files are stored in a secured location, accessible only by authorized staff. The Authority will not collect or maintain Sensitive Personally Identifiable Information (SPII) without proper authorizations.

Additionally, the Authority will only collect Personally Identifiable Information (PII) that is needed for the purpose for which it is collected.

- **Personally Identifiable Information (PII)** is defined as information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records), when used alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual. (dates of birthplaces, mother's maiden name).
- **Sensitive Personally Identifiable Information (SPII)** is PII that when paired with another identifier or if lost, compromised or disclosed without authorization, could substantially harm an individual. Examples of SPII when paired with another identifier include but are not limited to social security or driver's license numbers, medical records, and financial account numbers such as credit or debit card numbers.

The Authority and its staff will only share or discuss SPII with those who have a need to know for purposes of their work. The Authority will collect only the PII that is needed for the purposes for which it is collected. The Authority uses safety measures when discussing file information over the phone, it will not leave messages containing SPII in a voicemail, and will avoid discussions containing sensitive PII with anyone not authorized to have knowledge of the sensitive information. The Authority will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of information or improper disclosure of information by staff will be investigated and could result in disciplinary action if found to be in violation Authority–Personnel Policy and Protection at Workstation Policy.

### **I-1. W. PREVENTING ERRORS AND PROGRAM ABUSE**

The Authority is required to utilize—and review information provided in HUD’s Enterprise Income Verification (EIV) system. The Authority is required to use EIV in its entirety in accordance with HUD administrative guidance [24 CFR 5.233]. The Authority is further required to:

- Provide applicants and participants with HUD Form 52675 “Debts Owed to PHAs and Terminations”, requiring all adult members of the household composition to acknowledge receipt of HUD Form 52675 by signing and retaining a copy in the family’s file.

The Authority will provide each family with a copy of “What You Should Know about EIV”, a guide about the EIV system published by HUD. The Head of Household will be required to sign acknowledgment of form with a copy of signed acknowledgment retained in the file.

The EIV system is a tool used as an on-line source for income verification about the members of the household composition and is reviewed before, during, and as needed if fraud is suspected, during interim and annual reexaminations.

The EIV system is accessed through an independent secured source that systematically and uniformly maintains income information in a computerized format for a large number of individuals. This system enables the Authority to check income sources for all family members, regardless of income methods reported by applicants (not at initial eligibility, within 90 days of becoming a New Admission to a program) and its current participants.

Verifications, regardless of technique, require all Public Housing Agencies (PHA)’s to review information in the Income Validation Tool (IVT) within 90 days of new

admission to a housing program, and to review reports quarterly for continued assistance after an annual or interim reexamination to compare income information reported by the family to the Authority, with information reported to the Social Security Administration and Internal Revenue Service.

The EIV system provides a multitude of reports to detect errors and program abuse.

The Authority staff may not disclose EIV data to third parties (EIV data is property of HUD and is protected by the Federal Privacy Act). Staff may only provide EIV data to each member of the household that is reflective only of that person's information. Access to share information with a receiving Housing Authority during a portability transfer is permissible and must be sent via secured email provider or by U.S. Mail addressed specifically to the person at the receiving agency and sealed shut (See Chapter 13 Moves with Continued Assistance/Portability). Information pertaining to other members of the assisted household may not be shared with the Head of Household or any other member in the household unless EIV data is for minors in the home, at which time information may be provided to the minor's parent or guardian.

The Authority is required to store files in a secured area. Prior to removing any file from the secured file room, the Authority requires staff to complete a tenant file request card and place file card where file had been located.

### **I-I.Y. FAMILY OUTREACH**

HUD requires the Authority to publicize and disseminate information to make known the availability of housing assistance and to ensure that the Authority's wait lists have a sufficient number of applicants on its waiting list for the HCV program in order to utilize the resources it is awarded.

HUD requires the Authority to admit 75% of extremely low-income (ELI) families to the program. The Authority must conduct selections from the ELI list until the 75% requirement is met, before it may do a wait list selection from a higher income limit wait list. The percentage may be a combined percentage of families admitted to the HCV programs and Low-Income Public Housing (LIPH) wait list.

The Authority will make outreach efforts designed to inform qualified families about the availability of assistance under the programs administered by the Authority. These efforts may include, as needed, submitting press releases in local papers and social media, developing informational materials and flyers to distribute to other affiliate agencies and clientele, provide preapplication information to other public and private agencies serving the low income or

homeless population, establish partnerships with these providers to provide services or housing referrals.

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

### **1-I.Z. Owner Outreach**

The Authority is responsible for ensuring families who are low-income have access to all types of affordable housing within the Authority's jurisdiction. Areas outside of poverty or minority concentrations are encouraged. To fulfil this requirement, the Authority encourages owners, representing a variety of types and ranges of affordable housing in the county to partner with the Authority's HCV program by agreeing to rent decent, safe and sanitary housing units to participants on the HCV program.

The Authority conducts periodic events and workshops with owners who have rental properties in Merced County, property management companies, and affiliate agency staff to prove relations, educate interested parties about the subsidized program, and to recruit new owners and landlords.

The Authority informs clientele of the online web-site it utilizes to list of local rentals posted by owners with properties. The Authority provides a printed version of the listing by request. The site provides information about units for rent within the county that are for rent by owners. Most of the owners). Listings are available online by visiting Affordablehousing.net (formerly GoSection8.com).

The Authority actively participates with community-based organization(s) comprised of private property owners, apartment managers, and property management companies.

### **I-I.Aa. VOUCHER PROGRAMS 101:**

HUD requires the Authority to assist families in their housing search by providing the family with a list of resources available in the county as well as available unit information. The Authority does not "pre-qualify" an owner to participate in the program. The Authority builds positive relationships with its owners and their willingness to rent to an eligible HCV family.

- How does an Owner participate by renting a unit to a program family?

The family searching for a rental unit will have a valid voucher with an expiration date listed. When a family approaches an owner about tenancy, the owner becomes responsible for screening a family for suitability to determine whether the family meets their criteria for tenancy (no different than an owner would screen someone who does not have voucher assistance). Once the owner determines the family's suitability and has decided to rent the unit, the family and owner should meet to complete the forms. The Request for Tenancy Approval (RFTA) form (HUD Form 52517) reflects the family's request for assistance and the owner and the family must complete the form for the unit of interest. This document is the first step in obtaining approval for the family to receive the assistance in order to occupy the unit. A copy of the owner's proposed lease with the family must be attached to the RFTA form (signatures to formalize the lease are not required at this stage to prevent either party from entering into a binding agreement without approval of the unit by the Authority).

A HUD Tenancy Addendum (HUD Form 52641-A) is included with the family's voucher and packet of forms to be completed. This document must be attached to the proposed lease and RFTA and will become part of the lease agreement once assisted.

All forms are to be returned to the Authority and must be received no later than the expiration date shown on the family's voucher. Upon receipt of the RFTA packet of forms, the Authority will review and determine the rent is reasonable and within the affordable rent range for the family's household size and income.

HUD requires that a unit pass initial HQS inspection requirements before it executes a Housing Assistance Payment (HAP) contract between itself and the Owner or agrees to release payment of subsidy.

During the duration of the family's tenancy at the unit, the Authority is required to inspect all HCV assisted units at least once annually or biennially (discretionary by the Authority where restrictions apply).

The standard term of the initial HAP contract is one year or 12 months before an owner may request to increase the rent or a family can move. In its efforts to gain new owners and units to partner with the Authority, shorter contract terms may be made available or approved at the discretion of the Authority.

Additional information is available in each chapter of the administrative plan, providing greater detail to each topic.

## **CHAPTER 2**

### **APPLYING FOR ADMISSION [24 CFR 982.204]**

#### **OVERVIEW**

It is the Authority's policy to ensure that all families who express an interest in housing assistance are given an equal opportunity to apply and that all families are treated in a fair and consistent manner.

This chapter describes the policies and procedures for applying for a housing wait list program by submitting the initial preapplication, placement on a wait list, eligibility requirement(s), denial of placement on a specific waiting list(s), and certain limitations on who may apply.

The actual order in which families are selected from the waiting list can be affected if a family has certain characteristics designated by HUD or the PHA that justify their selection. Once an applicant is selected from a wait list, the criteria and information reported in the preapplication verifications will be formally reviewed and verified to determine the family qualifies for the terms required in the program they are selected for.

The primary purpose of the intake function is to gather information about the family household that will be used in determining program eligibility. The Authority utilizes information provided by the family to determine proper placement on a waiting list and as the initial source of verifications prior to and upon selection from the waiting list(s). During the intake process, the Authority will review the information the family was selected for, verify the information provided by the family and confirm that the preferences are applicable to the family, in order to determine eligibility.

The information received during the intake process assists the Authority with providing the family additional service and resources that may be available to them through partnering agency's in the community

All applicants are placed on a waiting list(s) in accordance with HUD requirements and discretionary policies outlined in this Administrative Plan.

## **THE APPLICATION PROCESS**

### **2-I.A. OVERVIEW OF THE PREAPPLICATION PROCESS**

The Authority utilizes a waiting list and preferences to target housing assistance to the most vulnerable people in the community, including families and individuals who are experiencing homelessness.

HUD requires that the Authority establish an Annual Plan describing its approach to meeting local housing needs among extremely low and very low-income families. The Authority's Plan describes eligibility for housing assistance and selection criteria. The Authority must ensure that 75 percent of households admitted into the voucher program and 40 percent of households admitted into public housing each year are extremely-low income. HUD allows the Authority discretion to establish policies for managing their waiting lists.

The purpose of accepting preapplications and maintaining a wait list is to permit the Authority to gather information for placement on one or more housing program waiting list(s). The preapplication contains questions designed to obtain pertinent information about the family.

### **2-I. B APPLICANT PORTAL-APPLYING FOR ASSISTANCE**

The application process involves two phases. The first is the "initial pre-application". This phase results in a family's placement on a wait list electronically dated, timestamped, and uploaded to the Authority. The pre-application will remain in its database until selected from a wait list.

The Authority utilizes an online application portal requiring interested person(s) in applying for a housing program to create and register an account with the Authority's online *Rent Café* portal via the Authority's website at [www.merced-pha.com](http://www.merced-pha.com). Through online registration on the Rent Café portal, applicants create a user account that is utilized to store information relative to the family's composition and characteristic. All information in the applicant portal account is information entered by the applicant and allows the family to login at their convenience to update and report any changes that occur while on the waitlist. The portal allows applicants to view the status of submitted preapplications.

**Disabled Persons:** As a reasonable accommodation for an applicant that is a person with disabilities, the Authority may approve a paper preapplication to be submitted by request

### **LIMITED ENGLISH PROFICIENCY (LEP)**

In accordance with the Authority's Limited English Proficiency (LEP) policy the online portal account is made available in both Spanish or English, in accordance with the Authority's LEP and Language Access Plan (LAP) as defined in this Administrative Plan.

### **2-I.C. ACCESSIBILITY OF THE APPLICATION PROCESS:**

#### Elderly or Disabled Populations [24 CFR 8]

The Authority must ensure that the application process is accessible to all families, including people who may have difficulty complying with the normal, standard Authority application method, by providing alternate approaches that provide full access to all.

### **2-I.D. PLACEMENT ON A WAITING LIST:**

Applicants are encouraged to login to their online account to review and confirm information is current and up to date. This includes but is not limited to updating their email address, updating information due to changes to their residence and/or mailing address and telephone number(s). Changes should be reported as they occur. The pre-application may be cancelled if the Authority receives undeliverable correspondence.

Periodically, the Authority must purge its waiting lists to confirm an applicant's interest to remain on a wait list and remove applicants who fail to respond. Applicants who fail to respond to a purge are removed from all wait lists. Communication and correspondence are often performed via email using the online portal. Keeping the information in an application up to date is pertinent to remaining on all wait lists. The Authority has discretion on the method it chooses to send correspondence. Methods used by the Authority to conduct the purge may be done through the portal to by email or sent through the U.S. Mail. Examples of purge content may be similar to that of an interest card and used to confirm an applicant's ongoing interest to remain or be removed from a wait list.

Applicants login the portal using the email address they registered the portal account with. Applicants who forgot the email, or no longer have access to the email may contact the Authority to make changes to their account email. Applicants who forgot the password to login to the portal may reset the password on the login page using the "forgot password" link.

The second phase of an application is known as the “full application” phase. When an applicant is selected from a wait list, the Authority requires them to complete the full application in order to determine their eligibility. The Authority is required to review and verify information reported by the family and verify the income and preferences selected for based on the content of preapplication. The Authority must determine the family meets the income limit selected for and a preference match the preferences listed in the pre-application. The information reviewed by the Authority include but are not limited to combined gross household income for all members listed in the family’s composition, and preferences such as disability, veteran status, displacement by government action, or homeless.

It Authority is responsible to ensure that the information claimed by the family is verified and that HUD and Authority eligibility factors are met. Acceptable forms of verifying may be received from the family when the information is current and consecutive, by written third party to the source, and lastly, by orally method with documentation of the conversation in the file. Information used to determine initial eligibility must not be more than 60 days old.

***Persons with Disabilities:*** As a reasonable accommodation for Persons with a disability may *contact* the Authority to request assistance for other available formats to provide information when it is difficult to use the online portal.

## **2-I.E. CRITERIA DEFINING WHAT FAMILIES MAY APPLY [CFR 982.202]**

The Authority may adopt criteria defining what families may apply for assistance within the announcement of a public notice.

When a waiting list is open, the Authority must accept preapplications from a family or individual for whom the list is open to. Good cause for not accepting an application such as failure to provide requested information, illegal activity, or debt owed to an Authority, or applying for a bedroom size the household composition is ineligible for.

## **2-1. F. WAITING LIST ADMISSIONS [CFR 982.202]**

Waiting list admissions and special admissions:

The Authority may admit a family or individual for participation to a program:

- As a special admission (see CFR 982.203)

- As a waiting list admission (see 982.204 – 982.210).

Prohibited admissions criteria:

The Authority is prohibited from denying admission to a family based on:

Where family lives: to the program may not be based on where the family lives before admission to the program. However, the Authority may target assistance for families who live in public housing or other federally assisted housing, or may adopt a residency preference.

Where family will live: Admission to the program may not be based on where the family will live with assistance under the program.

Family characteristics: The Authority preference system may provide a preference for admission of families with certain characteristics:

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 (familial status discrimination);
- Discrimination because of age, race, color, religion, sex, or national origin;
- Discrimination because of disability; or
- Whether a family decides to participate in a family self-sufficiency program.

Applicant status: No applicant has a “right or entitlement” to be listed on the waiting list(s), or to any particular position on the waiting list or to admission to the programs. The preceding sentence does not affect or prejudice any right, independent of this rule, to bring a judicial action challenging a PHA violation of a constitutional or statutory requirement [24 CFR 982.202(c)].

Admission Policy: The Authority must admit applicants for participation in accordance with HUD regulations and other requirements, including, but not limited to, 24 CFR Part 5, subpart I. (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), and with Authority policies stated in this administrative plan and the PHA plan.

## **2-I.G. SPECIAL ADMISSIONS and ASSISTANCE TARGETED BY HUD**

- A.** If HUD awards an Authority funding that is targeted for families living in specified units:
- The Authority must use the assistance for the families living in these units
  - The Authority may admit a family that is not on the Authority's waiting list, without considering the family's waiting list position. The Authority must maintain records showing that the family was admitted with HUD-targeted assistance.
- B.** 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 [41 U.S.C. 4101 *et seq.*];
  - 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 projects.

## **2-I.H. WAITING LIST: OPENING and CLOSING; PUBLIC NOTICE**

**[24 CFR 982.206]**

### Public Notice:

When the Authority open the waiting list(s), it will publish a Public Notice in compliance with HUD Fair Housing requirements to inform persons who may be interested in applying for assistance.

Opening of the Wait Lists -Public Notice [24 CFR 982.206]

The Authority will utilize the following procedures for opening the waiting list:

When the Authority intends to open a waiting list it will advertise through the posting of a public Notice using any of the following sources:

- Agency website
- The Merced Sun Star
- Human Services Agency
- Area Agency on Aging
- Local non -profit agencies
- Other affiliate public entities for the County of Merced
- Neighboring Housing Authorities

The notice will contain:

- Date and time the waiting list(s) will open (begin accepting preapplications) for a wait list;
- Housing program(s) for which preapplications will be accepted;
- Brief description of the housing program;
- Limitations, if any, on who may apply;
- Method by which preapplications will be accepted;
- Date and time the waiting list(s) will close (Authority will cease accepting preapplications).

The notice will provide information that will include the Authority's web site address, the Authority's physical address and telephone number(s), with instructions on how to apply, information on eligibility requirements, limitations on who may apply for the program (if applicable), and any local preferences.

**Persons with disabilities:** As a reasonable accommodation by request from a person with a disability, additional time may be granted for submission of a preapplication after the closing deadline. This accommodation will also allow persons with disabilities the opportunity to submit a preapplication in cases when a social service organization provides inaccurate or untimely information about the opening or closing.

### **Closing the Waiting List [24 CFR 982.206(c)]**

If the Authority determines that the existing waiting list(s) contains an adequate pool for use of available program funding, the Authority may stop accepting new applications or may accept only preapplications meeting criteria adopted by the Authority. The open period shall be long enough to achieve a waiting list adequate to cover projected turnover and new allocations over the next 24 months. The Authority will give at least a ten (10) day notice prior to closing the waiting list.

## **2-1.1. APPLYING FOR ASSISTANCE**

A family that wishes to receive HCV assistance must apply for admission to the housing program when the waiting list is open. HUD permits the Authority to determine the format and content of the agency's preapplication, how preapplications will be made available to interested families, and how preapplications will be accepted by the Authority.

The preapplication will contain at minimum, the following information:

- Applicant name and address
- Social Security Number, and Date of Birth
- Family size
- Date and time of application;
- Available local preferences;
- Racial or ethnic designation of the head of household;
- Annual (gross) household income;
- Email Address;
- Valid Contact Phone Number;
- Accessibility needs and other statistical criteria;
- HUD-FORM 92006 Supplemental to Application for Federally Assisted Housing;
- Project-Based Voucher online preapplication may include number of bedrooms being requested based on family size.

Incomplete or duplicate preapplications will not be accepted by the system.

Submitting duplicate preapplications does not increase the odds of being selected nor will it move an applicant to the top of the waiting list.

Preapplications do not require an interview. The information on the preapplication will not be verified until the applicant has been selected from the waiting list to determine final eligibility. Program eligibility will be determined during the full intake application process when all preferences and household information are verified. Preapplications are electronically stored and placed on the waiting list in the following order:

- Preferences;
- Income (based on what the family reported); and
- Time and date applied.

Preapplications selected from the waiting list must meet the income limits for and meet ALL preferences claimed in the preapplication and at time of selection. Preferences are given a point value for each preference listed. Applications are selected electronically for a wait list by preference (points).

Applicants who are selected with preferences must meet each of the preferences the system selected them with. Applicants who do not meet all of the preferences marked within the preapplication will be determined as ineligible and the preapplication will be returned to the wait list with the ineligible preferences removed. In addition to meeting each of their selected preferences, the selected family household combined income must not exceed the income guidelines for the family size. If an applicant family's household income exceeds the income limits established by HUD annually, the family will be determined ineligible. Applicants that are determined to be ineligible will have their preapplication preferences and income updated to that which was reported in the eligibility packet and returned to the wait list.

It is the responsibility of each applicant to update their preapplication as things change. Updates to an application or to apply to other wait lists when the wait list is open must be done online by logging into their account on the RentCafe Applicant portal. A link is provided on the Authority's website, Homepage.

## **2-I.J. WAITING LIST: ADMINISTRATION OF THE WAITING LIST**

**[CFR 982.204]**

Except for special admissions, participants must be selected from an Authority's housing program waiting List. This is in accordance with HUD regulations and the Authority's admission policies of this administrative plan.

The preceding sentence does not affect or prejudice any right, independent of this rule, to bring a judicial action challenging an Authority violation of constitutional or statutory requirement.

### Authority policy:

The Authority admits applicants for participation in accordance with HUD regulations and Authority policies as stated in the Authority's Administrative Plan and the PHA Plan.

*Persons with Disabilities: As a reasonable accommodation for a person with disabilities, information requested to be provided by a more accessible format may be granted.*

## **2-I.K. WAIT LIST: SELECTION AND ADMISSION TO PROGRAM**

[24 CFR ~~982207~~]

When funding and vouchers are available, families are selected from the waiting list in their determined sequence, regardless of family size, and subject to income targeting requirements.

When there is insufficient funding available for the family selected from the wait list, the Authority will not admit any other applicant until funding is available for the first applicant.

### **Authority Admission Policy**

The Authority must admit applicants for participation in accordance with HUD regulations and other requirements, including, but not limited to 24 CFR Part 5, subpart I Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and with Authority policies stated in the Authority's administrative plan and the PHA Plan.

During the full application process, applicants will be required to:

- Complete a full application made available to the family electronically accessible through the online portal account, or with hardcopy;
- Provide all requested information to determine eligibility;
- Meet all preferences selected under;
- Meet income limit requirements selected for;
- Attend all eligibility appointments.

Persons with a disability: May request a reasonable accommodation for assistance or for use of other means available to complete the full application.

## **2-I.L. REQUIREMENT to ATTEND INTERVIEWS/APPOINTMENTS**

At the Authority discretion interviews and appointments may be conducted via web-based virtual applications online or held in-person. The Authority may require all adult members of the household composition to attend scheduled appointments.

Exceptions may be made for students attending school out of state or for members for whom attendance would be a hardship. The family must notify the Authority prior to a scheduled appointment if an adult member will not be able to attend.

The Authority requires that families attend appointments scheduled by the Authority and includes but is not limited to all appointment types whether in-office, virtual, or for unit inspections. Failure to comply with scheduled appointment requirements will be grounds for denial of assistance or termination of continued assistance.

*Persons with Disabilities: Requests for an alternate method of appointment, or the need to reschedule may be submitted to the Authority as a reasonable accommodation person with a disability.*

## **2-I.M. DENIAL OR TERMINATION OF ASSISTANCE FOR FAMILY**

[24 CFR 982.552]

### Action or inaction by family:

- The Authority may deny or terminate assistance under the programs because of the family's action or failure to act to requests made by the Authority.

Denial of assistance for an applicant may include any or all of the following:

- Denial listing on the Authority waiting list;
  - Denying or withdrawing a voucher;
  - Refusing to enter into a Housing Assistance Payment (HAP) contract;
  - Refusing to process or provide assistance under portability
- 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; or
  - Refusing to process or provide assistance under portability procedures.

This does not limit or affect exercise of the Authority's rights or remedies against an owner under the HAP contract, including termination, suspension, or reduction of housing assistance payments, or termination of the HAP contract.

(B) Requirement to deny admission or terminate assistance:

Details of provisions on denial of admission for illegal drug use, other criminal activity, and alcohol abuse that threatens neighbors and/or other residents can be found in 24 CFR 982.553.

- The Authority must terminate program assistance for a family evicted from housing assisted under the program for serious violation(s) of the lease;
- The Authority must deny admission to a program for an applicant, if any member of the family fails to sign and submit consent forms for obtaining information in accordance with part 5, subparts Band F of 24 CFR 982.553;
- The Authority must deny or terminate assistance if any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.

(C) Authority to deny admission assistance:

Grounds for denial or termination of assistance:

The Authority may at any time deny program assistance for an applicant, or terminate program assistance for a participant for the following grounds:

- When a family violates any family obligations under the program (see 24 CFR 982.551). See 24 CFR 982.553 concerning denial or termination of assistance for crime by a member or members of the family;
- If any member of the family has been evicted from federally assisted housing within the past five years;
- If the Authority has ever had assistance terminated under the program for any member of the family;
- If any member of the family has committed fraud, bribery, or any other corrupt or criminal act in connection with any Federal housing program;
- If the family currently owes rent or other amounts to the Authority or another PHA in connection with Section 8 or public housing assistance under the 1937 Act;
- If the family breaches an agreement with an Authority to pay amounts owed to an Authority or amounts paid to an owner by an Authority. The Authority may, at its discretion, offer a family the opportunity to

enter into an agreement to pay amounts owed to an Authority or amounts paid to an owner by an Authority. The Authority may prescribe the terms of the agreement;

- If the family has engaged in or threatened abusive or violent behavior toward Authority personnel;
- If the family has been engaged in criminal activity or alcohol abuse as described in § 982.553.

(D) Consideration of circumstances:

In determining whether to deny assistance because of action or failure to act by members of the family:

- The Authority may consider all relevant circumstances such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure;
- The Authority may impose, as a condition of continued assistance for other family members, a requirement that other family members who participated in or were culpable for the action or failure will not reside in the unit. The Authority may permit the other members of a participant family to continue receiving assistance;
- In determining whether to deny admission or terminate assistance for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the Authority may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the Authority may require the applicant or tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.
- If the family includes a person with disabilities, the Authority's decision concerning such action is subject to consideration of reasonable accommodation..
- Nondiscrimination limitation and protection for victims of domestic violence, dating violence, sexual assault, or stalking. The Authority's admission and termination actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105, and with

the requirements of 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking).

(E) Information for family.

The Authority must give the family a written description of:

- Family obligations under the program.
- The grounds on which the PHA may deny or terminate assistance because of family action or failure to act.
- The Authority's informal hearing procedures.

(F) Applicant Screening:

The Authority may at any time deny program assistance for an applicant in accordance with the Authority's policy, as stated in the Authority's administrative plan, on screening of applicants for family behavior.

The Authority is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the HCV program and to assist the Authority in complying with HUD requirements and Authority policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities.

In order to obtain access to the records the Authority must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

Authority Policy

The Authority uses a third-party vendor to perform criminal background checks for all adult household members.

The Authority is required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided.

The Authority utilizes the Dru Sjordin National Sex Offender database to assist and comply with HUD requirements when screening applicants for admission.

Additionally, The Authority must ask whether the applicant, or any member of the applicant's household, are subject to a lifetime registered sex offender registration requirement in any state.

If the Authority proposes to deny assistance based on a criminal record or on lifetime sex offender registration information, the Authority must notify the family of the proposed action and provide the culpable person of the record. The Authority will notify the Head of Household of its decision and provide an opportunity to dispute the accuracy and relevance of the information.

#### (G) Screening for Suitability as a Tenant [24 CFR 982.307]

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

#### Authority Policy

The Authority is not required to conduct additional screening in determining an applicant family meets an owner's standard for suitability for tenancy.

The owner is responsible for screening and selecting the family that will occupy their unit. The Authority must inform the owner that screening and selection for tenancy is the responsibility of the owner.

The owner sets their own criteria of suitability and may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

The Authority is required by HUD when requested by a prospective landlord, to provide a family's current and prior address (if applicable to length of time on program) and the name and address (if applicable) of the current owner. The Authority is permitted by HUD to provide owners with additional information so long as the family is notified that the information will be provided. The information provided by the Authority must be the same information provided to any other owner inquiring on the family.

The Authority may not disclose confidential information provided by the family as a response to the Authority's request for VAWA documentation (if

dating, stalking, sexual assault, domestic violence occurred), except at the written request or written consent of the individual providing their information.

(H) Missed Appointments:

The Authority may deny assistance for an applicant or terminate assistance of a participant after two (2) missed appointments.

The Authority will make at least two attempts to meet or reschedule a client. Applicants will be notified by mail or email when assistance has been denied. Participants will be sent a Notice of Termination of Eligibility (NTE) letter for missing two or more scheduled appointments. At the discretion of the Authority, appointments are scheduled in-person, by virtual program, by telephone, and include required inspections at the assisted unit.

Where no pattern of behavior exists, the Authority may issue a first warning to the family and provide counseling about the obligations of the family with information about the requirement to keep appointments and communicating when need to reschedule.

Appointments may be rescheduled for good cause prior to the scheduled meeting. Good cause shall mean for circumstances that prevented the family from attending and were out of their control. Appointments which require the Head of Household or adult family member to be present may be automatically rescheduled one time. The Authority will include the date and time and location of the appointment in advance.

Failing to attend or reschedule a required meeting after two attempts have been made will be grounds to terminate assistance:

- Eligibility for admissions
- Verification procedures
- Voucher issuance and briefings
- Housing Quality Standards inspections
- Recertifications
- Appeals

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

- Medical emergency
- Any other emergency not including incarceration

Persons with Disabilities: If the family includes a person with disabilities the Authority's decision concerning such action is subject to consideration by means of reasonable accommodation.

**2-I.N. FAILURE TO RESPOND OR PROVIDE**

If an applicant fails to attend a scheduled meeting, or fails to contact the Authority to reschedule a meeting prior to missing the date and time of the scheduled appointment, the applicant may be denied eligibility.

The Authority may make attempts to contact the family using other means and will review the HUD Form 92006 Supplemental Contact Form in its last attempt to reach the family, prior to terminating.

Failure to provide or failure to respond to the Authority is grounds to deny assistance and cancel the application.

Authority Policy:

Applicants that fail to comply with appointment requirements or fail to provide required information without notifying the Authority in advance of the due date will have violated the obligations of the family and will be grounds to deny or terminate assistance.

Persons with Disabilities: Upon request, reasonable accommodations will be made for persons with a disability who request assistance during the eligibility process, or require an alternate means of paperwork, or other accommodation. A person appointed by the family may be allowed to participate in the eligibility process upon consent by the person with a disability and completion of assigned HUD Form 92006 authorizing the appointed person as someone who is permitted to speak or act on behalf of the family must be provided and will be placed in the file.

**2-I.O. FORMS REQUIRED FOR ADMISSIONS:**

All adult members listed in the household composition are required to sign where applicable and where "other adult signature" line exists. The information provided is used in the determination of eligibility.

- HUD-Form 9886: All adult members must sign the HUD FORM 9886, Release of Information/Privacy Notice;

- The full application documents (electronic submission acceptable);
- Declarations and consents related to citizenship/immigration status;
- Authority Release of Information (ROI) for verifications not covered by the HUD Form 9886;
- Consent to release information for criminal records.

Additional forms requiring ALL adult members of the household to sign include but are not limited to:

- Family Obligations Form;
- Release of Authorization (Internal use form);
- HUD-FORM 9886: (HUDs release of authorization form);
- Electronic income Verification form;
- Important Notice form;
- HUD Debt Owed form;
- Declaration 214 – Immigration status form (Declarations and consents related to citizenship/immigration);
- Any other supplemental form required by the Authority.

Additional forms and documents not included in the above may require signature. Applicants may be required to sign additional authorizations to release specific verification information not covered by the HUD Form 9886 or Authorization to Release Information forms. Failure to comply will be grounds for denial of admission.

The Authority may require additional information or documentation from the family to be used in determining eligibility. The standard time frame to provide information is ten (10) days.

Information not received by the due date may result in a second and final notice being sent prior to terminating a family. Persons requiring additional time or assistance must submit their request before the expiration shown.

*Persons with Disabilities:* By request, as a reasonable accommodation for a person with disabilities, additional time may be granted to submit required documents.

**2-I.P. VERIFICATION [24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]**

Information provided by the family may be verified if the information provided by the family is stale, lacks information, or further questions arise. This includes but is not limited to verification of the family composition, income, assets, student status, and other pertinent information provided by the family used to determine eligibility.

Information received by the Authority for the purposes of determining initial

eligibility must not be older than sixty (60) days from date requested.

Upon its review of information, the Authority determines that additional information or document(s) are needed, the Authority will instruct the family to provide such document(s). The Authority's standard time for a family to respond to requests is (10) days from the date shown on the notice.

Failure to provide requested information by the date due is grounds to deny assistance. If additional time is required, the family may request an extension to provide the information. Failure to provide the required information in a timely manner may result in denial of assistance.

## **2-I.Q. FINAL DETERMINATION AND NOTIFICATION OF ELIGIBILITY**

[24 CFR 982.201]

After the verification process is completed, the Authority will do a final review of all information and certify the family is either eligible or ineligible. A family determined eligible will be notified by the Authority and scheduled to attend a voucher briefing, a requirement prior to the voucher being issued.

If a family fails to qualify for any single criterion that affected the order in which it was selected from the waiting list, the family will be notified they are ineligible with the cause provided. The family will be provided an opportunity to request an informal review to discuss findings and provide information that may change the outcome. When a family is returned to a wait list, the information provided at the full application will be used to update their file and the Authority will return the family's preapplication to the wait list.

When an applicant is denied for any of the listed mandatory reasons to deny assistance, or for other reason to deny as defined by Authority policy, the application will be cancelled and notice with reason provided to the family. The family will be provided the opportunity to request an informal review within ten (10) days from date on notice. When a family disagrees with the decision to deny eligibility or has information that may change the decision, the family will have an opportunity to request an informal review within ten (10) business days from the date on the notice of denial.

## Chapter 3

### ELIGIBILITY FOR ADMISSION 24 CFR 982.201

#### OVERVIEW

HUD and the Authority's criteria for admission and denial of admission to the program. The policy of this Authority is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. The Authority 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 Authority pertaining to their eligibility.

The Authority may admit only eligible families to the program. To be eligible, an applicant must be income-eligible in accordance with the income limitations selected for, must meet all preference criteria selected with, and must be a citizen or a noncitizen who has eligible immigration status, If the applicant is a victim of domestic violence, dating violence, sexual assault, or stalking, 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) applies.

### **3-I.A. ELIGIBILITY FACTORS [24 CFR 982.201]**

The Authority accepts preapplications to apply for any of its housing rental program wait lists from all persons and whose head or spouse is at least 18 years of age or an emancipated minor under state law.

To be eligible for participation, an applicant must meet qualifying HUD criteria in addition to any discretionary permissible criteria established by the Authority.

Examples of HUD required eligibility criteria are:

- An applicant must be 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 a Declaration of Citizenship or eligible immigrant status and verification where required.
- 
- At least one member of the applicant family must either be a U.S. citizen or have eligible immigration status before the Authority may provide any housing assistance.

A family's initial eligibility for placement on the waitlist will be made in accordance with required eligibility factors.

Information related to denial of admission are addressed in Chapter 15 Denial or Termination of Assistance of this Administrative Plan.

Additional admission criteria that may be grounds to deny may occur when an applicant fails to provide required information requested by the Authority.

Evidence of citizenship/eligible immigrant status will not be verified until the family is selected from the waitlist and initial eligibility is to be determined; if the Authority determines that such eligibility is in question, whether or not the family is at or near the top of the wait-list, the Authority may request additional information at such time.

At the request of the Authority, the family must submit required evidence of citizenship or eligible immigration status.

The Authority must deny admission or terminate program assistance for a family member who does not establish citizenship or eligible immigration status, and the applicable informal review procedures.

Income:

- (1) Income eligibility: To be income eligible, the applicant must be a family in any of the following categories:
  - (a) A “very low income” family; (HUD defines “very low” as the “extremely-low” income limits with poverty limit guidelines factored in;
  - (b) A low-income family that is “continuously assisted” under the 1937 Housing Act;
  - (c) A low-income family that meets additional eligibility criteria In the Authority’s administrative plan;
  - (d) A low-income family that qualifies for voucher assistance As a non-purchasing family residing in a HOPE I or HOPE II Project.

**3-I.B. ADDITIONAL CRITERIA for ADMISSIONS**

A family will not be admitted to the program if any member of the family has been evicted from federally assisted housing for serious violations of the lease within the past five (5) years.

The PHA must deny or terminate assistance if any family member fails to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.

**3-I.C. FAMILY COMPOSITION [24 CFR982.201(c)] [24 CFR 5.403]**

An applicant is continuously assisted under the 1937 Housing Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Applicant means a person or a family that has applied for housing assistance.

The applicant must qualify as a family. Family includes but is not limited to the following regardless of actual or perceived sexual orientation, gender identity, or marital status:

- A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person or a group of persons residing together, and such group includes, but is not limited to:
- A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
- An elderly family;
- A near-elderly family;
- A disabled family;
- A displaced family; and
- The remaining member of a tenant family.
- A remaining member of a resident family, meaning a family member of an assisted household who remains in the unit when other members of the family have left the unit.

Authority Policy:

A family member included in the household composition at the initial eligibility when the full application is completed, and who is not related by blood or marriage; and who was not listed in the household composition of the preapplication prior to selection from the wait list may include two or more individuals who are not related by blood, marriage, adoption, or other operation of law, but who demonstrate either that they have lived together within the previous twelve (12) months of a completed preapplication for eligibility or selection from the waiting list.

Applicants are asked to identify within the preapplication, those individuals to be included in the family composition at the time of selection and applicants are required to update and report changes of information periodically within their online account by logging into the applicant portal.

(A) Head, Spouse, Co-Head, And Other Adult Member(s) of Household

Head of Household

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.

Head of Household will be determined by who is designated on the original preapplication as head. If a family unit separates while it has an active preapplication on the wait list(s), the family members may be asked to determine to whom will retain the preapplication for housing assistance or default to the member listed as head of household on the preapplication. Under no circumstances shall the Authority allow the separate households to be admitted as two applicants to the wait list under the same preapplication.

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

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 preapplication and there is no court determination, the Authority shall use the following guidelines to determine who will retain the preapplication based on Authority's determination of the evidence presented:

1<sup>st</sup> Priority: The preapplication will be given to victims of domestic violence if domestic violence is a contributing cause of the family breakup;

2<sup>nd</sup> Priority: The preapplication will be given to the adult member of the household who retains primary physical custody of the majority of the household's minor children;

3<sup>rd</sup> Priority: The preapplication will be given to the adult member of the household who is disable;

4<sup>th</sup> Priority: The preapplication will be 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 preapplication is an adult member that was not added at the initial submission of the preapplication, that adult member will not have residual rights to the preapplication, and will need to reapply to the Housing Choice Voucher or other wait list housing program when open.**

The Authority may require the family to provide documents for

verification(s) of any or all if applicable to the above circumstances.

If an applicant or family member fails to provide requested documentation the preapplication may be cancelled from the current selected waitlist.

### Spouse of Head

Spouse means the husband or wife to the head of household. 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. includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co- heads.

### Co-Head

A co-head is 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 [24 CFR 982.316]

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

- Is determined 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;
- Live-in aides may not be considered as a remaining member of the tenant family;
- A Live-in aide will not be considered as a family member at a later date.

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.

A live-in aide may only reside in the unit with the approval of the

Authority. 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.

The Authority will approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Verification must include the number of hours of care that will be provided.

The Authority may refuse to approve a particular person as the live-in aide or may withdraw such approval under the following circumstances:

In accordance with [24 CFR 982.316] "Live-In Aide" is defined as:

- 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 owes any amounts of money to any federal housing program;
- The person has been on a Federal housing program and evicted from public housing or terminated from Housing Choice Voucher due to program violation;
- The person has employment outside of the home;
- Another person is residing in the unit who is capable of providing the care for participant;
- Other additional family members of live in care attendant reside in unit with participant;

In instances where the family receives payments from Human Services through In Home Supportive Services (IHSS) program, and the live-in aide reported to the Authority is not the same person on the record with IHSS.

Participant requiring live in aide must supply the Authority with the contact information to request verification from a reliable, knowledgeable professional, such as a medical doctor, social worker or caseworker that the accommodation is reasonable. 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.

Verification will be required by the Authority prior to the live-in aide residing in the subsidized unit.

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

### **3-I.D. 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) and if they apply as a family unit, they will be treated as a family unit.

### **3-I.E. JOINT CUSTODY of CHILDREN**

Children who are subject to a joint custody agreement but live with the program eligible parent and the time of admission at least fifty-one percent (51%) of the time will be considered members of the household. Fifty-one percent (51%) is defined as 183 days of the year.

There will be a self-certification required of families who claim joint custody or temporary guardianship. The Authority may require the family to conduct a self-certification annually.

When both parents are on the waiting list and both are trying to claim the same 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 Authority will consult with the welfare department and review the court ordered visitation documents. Authority will decide based on the information presented.

Other factors that the Authority 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 (if applicable).

### **3-I.F. STUDENT ELIGIBILITY [24 CFR 5.612]**

Restrictions on assistance to students enrolled in an institution of higher education are as follows:

In accordance with the Federal Register [24 CFR 5.612] establishes restrictions on the eligibility of certain students (both part and full-time) who are enrolled in institutions of higher education as follows:

- (a) If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents.

In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance.

- (b) If, however, a student in these circumstances is determined independent from his/her parents in accordance with Authority policy, the income of the student's parents will not be considered in determining the student's eligibility.
- (c) The new law does not apply to students who reside with parents that are applying to receive HCV assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

### **3-I.G. DEFINITIONS**

In determining whether and how the new eligibility restrictions apply to a student, the Authority will rely on the following definitions:

#### Dependent Child:

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

#### Independent Student

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

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

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

- The individual is at least 24 years old by December 31 of the award year for which aid is sought;
- The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older;
- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence;
- The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes

- The individual is a graduate or professional student the individual is married;
- The individual has one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent);
- The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by;
  - A local educational agency homeless liaison;
  - The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director;
  - A financial aid administrator;
- The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances;
- The individual was not claimed as a dependent by his/her parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms;
- The individual provides a certification of the amount of financial assistance that will be provided by his/her parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

The Authority determines that an individual meets the definition of a vulnerable youth such a determination is all that is necessary to determine that the person is an independent student for the purposes of using only the student's income for determining eligibility for assistance. The Authority will verify that a student meets the above criteria.

### Institution of Higher Education

The Authority will use the statutory definition under section 102 of the Higher Education Act of 1965 to determine whether a student is attending an institution of higher education.

### Parents

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

### Person with Disabilities

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

### Veteran

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

### Vulnerable Youth

A vulnerable youth is an individual who meets the U.S. Department of Education's definition of independent student:

- The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was 13 years of age or older;
- The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence;

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

- A local educational agency homeless liaison;
- Director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director;
- A financial aid administrator.

### **3-I.H. DETERMINING STUDENT ELIGIBILITY**

A student applying for assistance on his/her own, apart from his/her parents:

- The Authority must determine whether the student is subject to the eligibility restrictions contained in 24 CFR 5.612.

If the student is subject to those restrictions:

- The Authority must ensure that:
  - (1) the student is individually eligible for the program;
  - (2) the student is independent from his/her parents; or the student's parents are income eligible for the program; and
  - (3) the "family" with which the student is applying is collectively eligible for the program.

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

- (A) Follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program
- (B) Determine whether the student is independent from his/her parents in accordance with the definition of independent student in this section
- (C) Follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program
- (D) If the Authority determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, the Authority will send a notice of denial in accordance with the policies in this chapter; and the applicant family will have the right to request an informal review,

### **3-I.I. DETERMINING PARENTAL INCOME ELIGIBILITY**

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

- (A) the student's parents are married and living together, the Authority will obtain a joint income declaration and certification of joint income from the parents.
- (B) If the student's parent is widowed or single, the Authority will obtain an income declaration and certification of income from that parent.
- (C) An income declaration and certification of income from each

parent.

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

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

### **3-I.J. INCOME -ELIGIBILITY AND TARGETING [24 CFR 982.201(b)]**

The Authority may admit only eligible families to the program. To be eligible, an applicant must:

- Be a "family";
- Must be income-eligible;
- Must be a citizen or a noncitizen who has eligible immigration status;
- If the applicant is a victim of domestic violence, dating violence, sexual assault, or stalking, 24 CFR part 5, subpart L (Protection of Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) applies.

#### Income Eligibility:

To be income eligible, the applicant must be a family in any of the following categories:

- A "very low income" family;
- A low-income family that is "continuously assisted" under the 1937 Housing Act;
- A low-income family that meets additional eligibility criteria specified in the Administrative Plan. Such additional Authority criteria must be consistent with the plan and with the consolidated plans for local governments in the Authority's jurisdiction;
- A low-income family that qualifies for voucher assistance as a non-purchasing family residing in a HOPE 1 (HOPE for public housing homeownership) or HOPE 2 (for homeownership of multifamily units) project. (Section 87(o)(4)(D) of the 1937 Act (42 U.S.C.

1437(o)(4)(D));

- A low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing;
- A low-income family that qualifies for voucher assistance and is a non-purchasing family residing in a project subject to a resident homeownership program.

### Income Targeting

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 (the term "very low" does not exclude the requirement to extremely low" selection requirement in this chapter, not to exceed "very low" for purposes of the definition in this Administrative Plan.

To be income eligible, the applicant must be a family in the very low-income category, which is a family whose income does not exceed fifty percent (50%) of the area median income. The Authority will not admit families whose income exceeds fifty percent (50%) of the area median income except those families included in 24 CFR 982.201(b).

Not less than 75% percent of the families admitted to the Authority's HCV program during the Authority's fiscal year from the Authority's waiting list shall be extremely low-income families

To be income eligible the family may be under the low-income limit in any of the following categories [24 CFR 982.201(b)]:

- A very low-income family;
- A low-income family that is continuously assisted under the 1937 Housing Act.;
- An applicant is continuously assisted if the family has received assistance program within sixty (60) days of voucher issuance.
- Programs include any housing federally assisted under the 1937 Housing Act;
- A low-income family physically displaced by rental rehabilitation activity under 24 CFR.511;
  - A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 projects;
- A low-income non-purchasing family residing in a project subject to a home-ownership program under 24 CFR 248.173;
- A low-income family or moderate-income family that is

displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248. 65;

- A low-income family that qualifies for voucher assistance as a non- purchasing family residing in a project subject to a resident home- ownership program.

To determine if the family is income eligible, the Authority compares the gross annual income of the household to the applicable income limit for family size. Families whose annual income exceeds the income limits listed for their family size will be considered ineligible and will be denied admission to the program and given the option to request an informal review.

### **3-I.K. PORTABILITY**

For initial lease-up at admission, families who exercise portability must be within the applicable income limit for the jurisdiction of the receiving Authority in which they want to live.

### **3-I.L. MANDATORY SOCIAL SECURITY NUMBERS [24 CFR 5.216, 5.218]**

Disclosure and verification of social security numbers and employer identification numbers for applicants and participants in certain HUD programs:

[24 CFR 5.216] Disclosure and Verification of Social Security and Employer Identification Numbers;

[24 CFR 5.218] Penalties for failing to disclose and verify Social Security and Employer Identification Numbers.

The requirements of this section apply to applicants and participants as described in herein; the exception is that this is inapplicable to individuals who do not contend eligible immigration status.

Families are required to provide verification of Social Security Numbers (SSN) for all family members prior to admission. This requirement also applies to persons joining the family after admission to the program. Failure to furnish verification of Social Security numbers is grounds for denial or termination of assistance.

### **3-I.M. DISCLOSURE REQUIREMENTS**

Disclosure of Social Security numbers is required. The requirements of this

section apply to applicants and participants and the members of the assisted household. Each applicant and participant must submit complete and accurate Social Security numbers (SSN) to be verified.

Each person, except those age 62 years of age or older as of January 31, 2010, whose initial determination of eligibility was begun before January 31, 2010, must submit a valid SSN if the participant has:

- Not previously disclosed a Social Security number;
- Previously disclosed a Social Security number that HUD or the Social Security Administration (SSA) determined was invalid; or
- Been issued a new Social Security number

Once a participant has disclosed and the Authority has verified each SSN, the following rules apply:

- Addition of new household member who is at least 6 years of age or under the age of 6 and has an assigned SSN;
- When the participant requests to add a new household member who at least 6 years of age, or is under the age of 6 and has an assigned SSN, the participant must provide the following to the Authority at the time of the request, or at the time of processing the interim reexamination or recertification of family composition that includes the new member(s).
- Addition of new household member who is under the age of 6 and has no assigned SSN:
- When a participant or applicant requests to add a new household member who is under the age of 6 and has not been assigned an SSN, the participant/applicant shall be required to provide the complete and accurate SSN assigned to each new child within 90 calendar days of the child being added.

For new admission, the 90-Day clock doesn't start ticking until the date of lease-up.

- The Authority shall grant an extension of one additional 90-day period if the processing entity, in its discretion, determines that the participant's /applicant's failure to comply was due to circumstances that could not have reasonably been foreseen and were outside the control of the participant /applicant.

If the participant/applicant does not provide requested SSN within the authorized time period, the Authority will impose appropriate penalties in accordance with [24 CFR 5.218].

The mandatory SSN requirements do not apply to individuals in mixed families, who do not contend eligible immigration status under HUD's non-citizen's regulation nor does it interfere with existing requirements relative to pro-ration of assistance or screening for such families.

### **3-I.N. RESTRICTIONS ON ASSISTANCE TO NONCITIZENS [24 CFR PART 5]**

#### Citizenship/Eligible Immigration Status [24 CFR 5.508]

General: Eligibility for assistance or continued assistance under a Section 214 covered program is contingent upon a family's submission to the Authority of documents that support evidence of citizenship or eligible immigration status.

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals, who are neither, may elect not to contend their status. 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.

#### Authority Policy:

One-time evidence requirement for continuous occupancy:

- For each family member, the family is required to submit evidence of eligible status only one time during continuously assisted occupancy under any Section 214 program.

#### Mixed Families [24 CFR 5.520 Part 5 subpart 5]

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 an informal review 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 an informal review.

Non-Citizen Students [24 CFR 5.522 (Part 5 subpart 5)]

As defined by HUD in the non-citizen regulations [24 CFR 5.52] non-citizen students-are not eligible for assistance.

Appeals

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

Verification of Status Before Admission

The Authority will not provide assistance to any family prior to the verification of eligibility for the individual or at least one member of the family pursuant to this section.

**3-I.O. DENIAL OF ADMISSION [24 CFR 982.553]**

Denial of Admission:

(a) The Authority MUST prohibit admission to the program of an applicant for five (5) years from the date of eviction if a household member has been evicted from federally housing for drug-related criminal activity;

(b) The Authority may admit the household member if it determines: That the evicted household member who engaged in the criminal activity successfully completed a supervised drug rehabilitation program';

That the circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned).

Any household member that has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing

(c) Other reasons prohibiting admission: Mandatory Prohibition:

Pursuant to HUD regulations prohibiting admission of person subject to

a lifetime sex offender registration, the Authority has established standards that prohibit admission to the program(s) under the same rule.

The Authority performs criminal background checks necessary to determine whether any household member is subject to a lifetime sex offender registration requirement in the State where the housing is located and a Nationwide offender search in other States where the household members are known to have resided.

The Authority has established the following standards that prohibit admission if:

- The family has violated any family obligation during a previous participation in the Housing Choice Voucher or other housing program administered by the Authority resulting in termination of assistance within the past five (5) years prior to final eligibility determination.
- The Authority may allow removal from the household composition of the family member responsible for violating the family obligation(s) within the past five (5) years as a current member of the household on the preapplication and/or allow the head of household to remove the culpable member from the household composition prior to final eligibility determination. The Authority will check criminal history for all adults in the household to determine whether any member of the family has violated any of the prohibited behaviors as referenced in the of this Administrative Plan.
- The family must pay any outstanding debt owed to the Authority or any other Authority as a result of prior participation in any Federal housing program. Balance shall be due and paid in full within fifteen (15) days of Authority notifying the family of the outstanding debt and notice to pay. If the family has already entered into a repayment agreement, the family must provide written proof of participation in good standing with a copy of the agreement and continue to pay as promised until balance is paid in full. A family who is determined eligible and fails to pay as agreed will be considered in violation of the family's obligations and may result in termination of assistance.
- The family must be in good standing regarding any current payment agreement made with Authority for a previous debt incurred at the time of initial eligibility determination. The Authority will consider

participation in its Housing Choice Voucher program if proof of good standing is provided.

- If any member of the family is subject to a lifetime registration requirement under a State sex offender registration program
- If applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the Authority may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition.
- 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,

### **3-I.P. OTHER 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;
- Where the family will live with assistance under the program;
- 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 Chapter 1, Fair Housing Policy and Reasonable Accommodations Policy of this Administrative Plan.

### **3-I.Q. PERMISSIVE PROHIBITIONS:**

The Authority may prohibit admission of a household to the program if it is determined that any household member is currently engaging in, or has engaged in during a reasonable time before admission:

- Drug-related criminal activity;
- Violent criminal activity;
- Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or
- Other criminal activity 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 Authority (including an Authority employee, contractor, subcontractor, or agent).

If the Authority previously denied admission to an applicant or applicants household member who engaged in criminal activity, the Authority may reconsider the applicant if the Authority has sufficient evidence that the member of the household is no engaged in and have not engaged in criminal activity or is no longer engaging in criminal activity.

When there is sufficient evidence that the member of the household completed an approved rehabilitation program, the Authority may choose not to deny the person.

### **3-I.R. CRIMINAL BACKGROUND CHECKS**

The Authority will conduct criminal background checks of each adult member listed in the household composition at initial eligibility and for each adult being added to the household composition during continued occupancy.

The Authority is required to conduct a nationwide sex offender background check prior to any admission to a federally subsidized housing program.

The cost of obtaining a background check may not be passed onto the applicant.

#### Evidence of Criminal Activity

The Authority may deny or terminate assistance for criminal activity by a member of the household based on a preponderance of the evidence, that the member has engaged in the activity, regardless of whether the member has been arrested or convicted of such activity

#### Use of Criminal Records – Denial

The Authority may propose to deny admission for criminal activity as shown by a medical record, the Authority must provide the subject of the record and the applicant with a copy of the criminal record. The Authority must give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process.

### **3-I.S. SCREENING OF APPLICANTS**

In an effort to prevent future illegal drug related violent criminal activity and/or 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 Authority 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 Authority's jurisdiction, as a new admission, will be screened for criminal background history.

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

### **3-I.T. 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 Authority 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, Authority may obtain the police reports associated with the arrest and consider the reported circumstances of the arrest. The Authority may also consider any statements made by witnesses or the applicant 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.

### **3-I.U. RETURN OF PERMANENTLY ABSENT FAMILY MEMBERS**

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

### **3-I.V. STANDARD FOR VIOLATION**

The Authority will deny participation in the program to applicants and terminate assistance to participants in cases where the Authority 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 involving acts of criminal activity that has as one or more of its these 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.

### **3-I.W. AUTHORITY DISCRETION**

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the Authority 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, 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 Authority 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 Authority may permit, at its discretion, the remaining members of a family to participate in the program.

### **3-I.X. NOTICE OF DENIAL OF ASSISTANCE**

In any case where the Authority decides to deny assistance to a family, the Authority 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 Authority.

### **3-I.Y. 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 show 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 Authority 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 .

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

### **3-I.Z. 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:

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

### **3-I.Aa. TENANT SCREENING [24 CFR982.307]**

The Authority does not screen family behavior or suitability for landlord tenancy in the HCV program. The Authority 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. The owner is responsible for screening families based on their tenancy histories and own criteria, which may include:

- Payment of rent and utility bills
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others
- Compliance with other essential conditions of tenancy

If requested, the Authority must offer the owner other information in the Authority's possession concerning the family, including:

- The family's current and prior address as shown in the Authority's records; and
- The name and address (if known by the Authority) of the landlord at the family's current and prior address.

The Authority may offer the owner other information in the Authority's possession concerning the family (if available), including:

- Information about the family's tenancy history
- Information about drug-trafficking by family members.
- The same types of information will be supplied to all owners by request.

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

### **3-I.Ab. CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE of CONTRACT**

Changes that occur during the period between issuance of a voucher and lease up may affect the family's eligibility or share of the rental payment. The family must meet appropriate income levels in effect at time of eligibility determination as published by HUD.

### **3-I. Ac. INELIGIBLE FAMILIES**

Families who are determined to be ineligible will be notified in writing or by email with a letter to follow, of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they

were denied due to non-citizen status. (See Chapter 19, "Complaints and Appeals" of this Administrative Plan for additional information about reviews and hearings).

## CHAPTER 4

### APPLICATIONS, WAITING LISTS, AND TENANT SELECTION [24 CFR 982.204, 982.205, 982.206. 982.207]

#### **OVERVIEW:**

When the Authority decides to open the wait list, interested applicants must submit the preapplication in order to be placed on the program waiting list.

When funding allows and when the Authority has not utilized their vouchers. When there are available vouchers assistance becomes available, the Authority selects families from the waiting list in accordance with HUD requirements and Authority Policies as stated in the administrative and annual plans.

HUD gives the Authority discretion to adopt policies and procedures for accepting preapplications, placing families on a waiting list, and selecting families from a list. The Authority must follow these policies and procedures consistently.

An applicant's position on a waiting list and the actual order in which an applicant is selected from the waiting list is affected by certain characteristic's designated by HUD or the Authority that justify a selection.

It is the Authority's objective to ensure applicants are placed in the proper order on the waiting list(s) and that they are selected for admissions to a program in accordance with the policies set forth in this administrative plan.

Maintaining an up to date waiting list provides the Authority with an adequate pool of applicants who, once selected, may qualify to receive rental assistance. It is the Authority's duty ensure that program funds are used adequately and in a timely manner.

## CHAPTER 4

### **4-I.A. ADMINISTRATION OF WAITING LIST**

The Authority uses a single waiting list for admission to its HCV tenant-based housing program.

- (A) Admission from waiting list: Except for special admissions, participants must be selected from the Authority's waiting list in accordance with HUD regulations and the Authority's admission policies in the administrative plan;
- (B) Organization of waiting list: The Authority must maintain information that permits selection of families from the waiting list in accordance with HUD regulations and the Authority's admission policies in the administrative plan;
- (C) The waiting list must contain the following information for each applicant listed:
  - Applicant name;
  - Family unit size (number of bedrooms for which family qualifies under Authority occupancy standards);
  - Date and time of pre-application;
  - Qualification for any local preference;
  - Racial or ethnic designation of the head of household;
- (D) Removing Applicant Names from the Waiting List:

The Authority may remove an applicant's name from the wait list for one or more of the following reasons:

- The policy may provide that the Authority will remove names of applicants who do not respond to requests for information or updates.
- The decision to withdraw an applicant name from the waiting list that includes a person with disabilities is subject to reasonable accommodation in accordance with [24 CFR Part 8].

If the applicant failed to respond to the Authority's request for information or updates because of the family member's disability, the Authority must reinstate the applicant in the family's former position on the waiting list.

(E) Family Size:

The order of admission from the waiting list(s) is not based on family size, or on the unit size for which the family qualifies under the occupancy standards.

When a family is selected from the waiting list and the Authority does not have sufficient funds to subsidize the family unit size of the family at the top of the waiting list, the Authority may not skip the top family to admit an applicant with a smaller family unit size. The Authority will instead, admit the family at the top of the waiting list when sufficient funds are available.

**4.I.B. FUNDING FOR SPECIFIED CATEGORY OF WAITING LIST FAMILIES:**

The Authority must select applicant families in the specified category when funds are awarded by HUD for that special category.

Number of Waiting Lists:

The Authority uses a single waiting list for admission to its Housing Choice Voucher (HCV) tenant-based housing assistance program. For county or local municipality programs, the August may use a separate single waiting list for admissions.

**4-I.C. WAITING LIST: DIFFERENT PROGRAMS [24 CFR 982.205]**

(A) If the Authority waiting list for tenant-based assistance is open when an applicant is on the waiting list for the low-income public housing (LIPH) program or other housing rental assistance program administered by the Authority, the Authority must make an announcement to all current applicants and program participants the offer to apply and be placed on its open waiting list for tenant-based assistance.

If the Authority waiting list for LIPH program or a Project-Based Voucher (PBV) program (site based housing) are open when an applicant is placed on the waiting list for its tenant-based program, and if the other program includes units suitable for the applicant, the Authority must announce the offer to apply and place the applicant on its waiting list for the other program(s).

(B) Other housing assistance:

Effect of application for, receipt or refusal:

(1) For purposes of this section, "other housing subsidy" means a housing subsidy other than assistance under the voucher program. Housing subsidy includes subsidy assistance under a Federal, state, or local housing program.

(2) The Authority may not take any of the following actions because an applicant has applied for, received, or refused other housing assistance:

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

**4-I.D. APPLICANT STATUS WHILE ON WAITING LIST [24 CFR 982.202(G)]**

It is not a right or an entitlement to be placed on the any of the Authority waiting lists, to any particular position on the waiting list, or be admitted to the programs.

Applicants are responsible to update their online preapplication periodically, or when any change occurs. Change includes but is not limited to a change to their address, household composition, income, or preference criteria. When requested, applicants are required to respond to notices received from the Authority or the preapplication will be cancelled from the waiting list(s).

Families who owe a debt to the Authority, any other Public Housing Agency (PHA) or another Federal housing program are eligible to apply to the wait list(s). However, upon selection from a wait list, the Authority will determine if any debts are owed to any of the above at the time of initial eligibility review. If the Authority determines that a family owes the Authority money, and the family has not yet established a payment agreement reflecting the account is in good standing. The family may be required to pay the debt balance in full prior to receiving a housing voucher or another form of housing program assistance.

If the Authority determines a family is ineligible for not meeting the income or preference criteria selected for and as shown on the pre-application, the

family will be determined ineligible and notified of the reason(s) with the opportunity to request an informal review.

Upon request, the Authority will provide correspondence in an accessible format as a reasonable accommodation for persons with disabilities.

Persons with disabilities may request to have an advocate attend the informal review if needed as a reasonable accommodation.

#### **4-I.E. PURGING THE WAITING LIST [24 CFR 982.204 (C)]**

HUD requires the Authority to purge the waiting list(s) periodically. The Authority may contact applicants by email or U.S. Mail with an update card to confirm information in their preapplication has not changed, allow the applicant to make changes, and confirm continued interest for the program assistance and waiting lists they applied to. The waiting list will be purged as required at times specified by the Authority.

Authority correspondence of an applicant which require a response will provide information that states their failure to respond by a deadline or within the time provided will result in the applicant's name being removed from the waiting list.

As an accommodation for persons with a disability, extension requests (typically not to exceed thirty (30) days)) may be granted to allow a disabled applicant ample time to respond.

Communication attempts by email that are rejected will be given at least one additional attempt to contact the applicant using any one or more of the following methods:

- U.S. Mail service;
- Other Email provided by the applicant Telephone
- Other contact person provided in the HUD 92006 Form

If a letter is returned by the Post Office as undeliverable and does not reflect a forwarding address, the applicant will be removed from the waiting list without further notice and a copy of the returned envelope and letter may be placed in the applicants electronic file. The Authority will make one attempt to forward correspondence to a forwarding address when correspondence is returned by the Post Office before cancelling the preapplication from the waiting list.

#### **4-I.F. GROUNDS FOR CANCELLATION FROM THE WAITING LIST**

Failure to respond or provide to a request for information from the Authority is grounds to cancel the preapplication. A request for an informal review will not be provided without the approval from the Director of Housing Programs or her/his designee.

Failure to attend scheduled appointment(s) will be cause to remove the preapplication

#### **4.I.G. ESTABLISHMENT OF AUTHORITY LOCAL PREFERENCES**

The Authority may establish a system of waiting list local preferences for selection of families to be admitted to a program.

The Authority selection preferences are described in Chapter 4 of this administrative plan.

- The Authority's system of local preferences must be based on local housing needs and priorities as determined by the Authority;
- in determining such needs and priorities, the Authority shall use accepted data sources and shall consider public comment on the proposed Public Housing Agency Plan and the Consolidated Plan for the relevant jurisdiction;
- The Authority may limit the number of applicants that may qualify for any local preference;
- The Authority shall not deny a local preference, nor otherwise exclude or penalize a family in admission to the program solely because the family resides in a public housing project;
- The Authority may establish a preference for families residing in public housing who are victims of a crime of violence.

Particular local preferences:

Residency requirements or preferences:

- Residency requirements are prohibited. The Authority is not prohibited from adopting a residency preference, the Authority may only adopt or implement residency preferences in accordance with non-discrimination and equal opportunity requirements;

- A residency preference is a preference for admission of persons who reside in a specified geographic area (“residency preference area”). A county or municipality may be used as a residency preference area. An area smaller than a county or municipality may not be used as a residency preference area;
- Any Authority residency preferences must be included in the statement of Authority policies that govern eligibility, selection and admission to the program, which is included in the Authority Annual Plan (or supporting documents). Such policies must specify that use of a residency preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family;
- A residency preference must not be based on how long an applicant has resided or worked in a residency preference area;

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. The Authority may treat graduates of, or active participants in, education and training programs in a residency preference area as residents of the residency preference area if the education or training program is designed to prepare individuals for the job market .Preference for person with disabilities:

- The Authority may adopt a preference for admission of families that include a person with disabilities. However, the Authority may not adopt a preference for admission of persons with a specific disability.

Preference for victims of domestic violence, dating violence, sexual assault, or stalking.

- The Authority may adopt a local preference for admission of families that include victims of domestic violence, dating violence, sexual assault, or stalking.

Preference for single persons who are elderly, displaced, homeless, or persons with disabilities;

- The Authority may adopt a preference for admission of single persons who are age 62 or older, displaced, homeless, or persons with disabilities over other single persons.

Selection among families with preference:

The Authority's system of preferences may use either of the following to select among applicants on the waiting list with the same preference status:

- (1) Date and time of application; or
- (2) A drawing or other random choice technique;
- (3) Establishment of local preferences.

Preference for higher-income families:

The Authority must not select families for admission to the program in an order different from the order on the waiting list for the purpose of selecting higher income families for admission to the program.

Verification of selection method:

The method for selecting applicants from a preference category must leave a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the administrative plan.

#### **4-I.H. INITIAL DETERMINATION OF LOCAL PREFERENCE** [24 CFR 982.207]

HUD permits the Authority to establish local preferences and give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the Authority to establish other local preferences, at its discretion.

The Authority's local preferences are based on local housing needs and priorities.

#### **4-I.I. PREFERENCES QUALIFICATIONS** [24 CFR 982.207]

The Authority uses the following local preference point system:

##### 100 Points: 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.

15 Points: Residency Preference:

Families who live, work, or have been hired to work within Merced County. 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.

12 Points: Mainstream:

Non-elderly disabled person at risk of homelessness or homeless. A person 18 years of age or older and less than 62 (18-61) years who is a family composed of one or more non-elderly persons with disabilities, which may include additional members who are not non-elderly persons with disabilities who are:

- Transitioning out of institutional and other segregated settings;
- At risk of institutionalization;
- At risk of experiencing homelessness or homeless.

10 Points: Elderly or Disabled Person:

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.

10 Points: Involuntarily Displaced:

Families who have been displaced due to a locally declared disaster, state declared disaster, federally declared disaster or another national emergency. It will also be given to those families that are involuntarily displaced by government action (emergency relocation, extensive rehabilitation and insufficient funding or other local disasters) as approved by the Executive Director.

**4-I.J. HCV FUNDING AND SET ASIDE VOUCHERS:**

Under regular funding received by HUD for the HCV program, funds are used to assist any eligible family on the waiting list and selected from the waiting list according to the policies in Chapter 4 of the administrative plan

Homeless - Advancement from Transitional Housing Assistance:

The Authority may, at its discretion, set-aside vouchers from its HCV Tenant-Based voucher allocation, when funding and availability permit, to be used to assist individuals or families in Merced County who are:

Participating in a Supportive Housing Program within the County of Merced, or Emergency Solutions Grants program; or by a partnering homeless service organization that is a member of the Merced County Continuum of Care's centralized/coordinated assessment system;

These transitional housing applications may be accepted even when the waiting list is closed. An individual or family who lacks a fixed, regular and adequate nighttime residence meaning;

- A) 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);
- D) 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;
  - Any individual or family who 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.

### **Independent Living Skills Program:**

The Authority may designate vouchers, when funding permits for foster youth/young adults transitioning from foster care and who lack adequate housing or are at risk for homelessness.

### **Adult Protective Services Program:**

The Authority may designate vouchers, when funding permits, for elderly and dependent adults referred by Adult Protective Services who are experiencing abuse and/or neglect.

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

HUD may award funding for housing assistance to be used for specifically-named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects).

In such instances, the Authority may admit the families whether or not they are or are not on the waiting list. These families are considered non-waiting list selections. The Authority must maintain records showing that such families were admitted with special program funding and that they meet the criteria to received housing assistance for the specific funding.

When HUD awards an Authority funding for programs targeted for specifically named families, the Authority must admit these families under a special admission procedure.

Special admission families will be admitted outside of the regular waiting list process and do not have to apply to a wait list or qualify for any preferences.

The Authority maintains separate records for Special Admission programs

### **Emergency Housing Vouchers (EHV)**

Emergency Housing Vouchers (EHVs) are issued under a non-waiting-list admission and are used to assist individuals and families who:

- Are experiencing homelessness;
- Are at risk of experiencing homelessness;
- Are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking; or

- Who are recently homeless and for whom providing rental assistance will prevent the family's homelessness or having high risk of housing instability.

EHV's may be issued to families by the CoC or other partner referral agency whom the CoC has determined is eligible for an EHV referral (based on qualifying definition for EHV assistance for homelessness or another eligible category as applicable).

New EHV's cannot be reissued after September 23, 2023. After this date, the Authority cannot reissue vouchers that have turned over. This provision does not impact existing families and their continued assistance.

### **Initial Verification of Local Preference Qualification [24 CFR 982.207]**

At the time a preapplication is submitted, an applicant's selection of a local preference and placement to the wait list is accepted on the following basis:

- At the time an application is submitted, the information is accepted as a self-certification that they qualify for a preference they've selected on the preapplication. The information will be accepted without verification.

Once the family is selected from the waiting list the final determination of eligibility and all preferences selected for will be verified.

- If any preference verification results in an applicant not meeting the preference they were selected for, the preapplication will be updated accordingly with the current information and returned to the waiting list without the local unmet preference.
- Applicants denied eligibility are provided the opportunity to request an informal review if they disagree with the denial or have information that may change the decision. The Informal Review request must be received within ten (10) days of the date shown on the denial of eligibility notice.
- Falsifying documents or providing false statements in order to qualify for any preference will be grounds to cancel and remove an applicant from a wait list.

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).

### **Preference Denial [24 CFR 982.207]**

If the Authority determines an applicant is ineligible due to not meeting the definition of a preference, the Authority will notify the applicant in writing of its determination.

If the applicant disagrees with the decision or has information that may change the decision, they will be provided an opportunity to submit a request for an informal review within ten (10) days of the date on the notice to deny.

If after the review, a preference denial is upheld, or the applicant fails to request a review, the applicant will be returned to the waiting list without the 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.

### **4-I.N. TARGETED FUNDING [24 CFR 982.203]**

When HUD awards special funding for specific criteria, families who believe they meet such criteria to qualify are placed on the waiting list. When a specific type of funding becomes available, the waiting list is searched for the first available family meeting the targeted funding criteria's who are admitted under targeted funding which are not identified as a special admission are identified by codes in the automated system.

The following types of program funding may be considered under "targeted" programs: Unification Program;

A family displaced because of demolition or disposition of a public housing project;

- A family residing in a multi-family rental housing project when HUD sells, forecloses or demolishes the project;
- Housing covered by the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (41 U.S.C. 4101 et seq.) [24 CFR 248.173];
- A non-purchasing family residing in a project subject to a homeownership program (under 24CFR 248.173);

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;

- Non-purchasing family residing in a HOPE 1 or HOPE 2 projects.

#### **4-I.O. INCOME TARGETING REQUIREMENT**

In accordance with the Quality Housing and Work Responsibility Act (QHWRA), each fiscal year the Authority will reserve a minimum of seventy-five percent (75%) of its Housing Choice Voucher program new admissions for families whose income does not exceed the Extremely Low-Income limits as established by HUD. HUD incorporates the Federal Poverty guidelines when determining the ELI limits and determines these limits annually.

The Authority will admit families who qualify under the Extremely Low-Income (ELI) limit to meet the income-targeting requirement, regardless of preference. To ensure that this requirement is met, the Authority may skip non-ELI applicants on the waiting list in order to select an ELI family.

The Authority's income targeting requirement does not apply to low income families who are currently participating in an Authority low-income housing program and considered continuously assisted as provided for under the 1937 Housing Act.

The Authority is also exempt from this requirement when the Authority is aiding low income or moderate-income families entitled to preservation assistance under the tenant-based program as a result of a mortgage prepayment or opt-out.

The Authority is exempt from this requirement when determining eligibility for a HUD Veteran Administration Supportive Housing (VASH) referral applicant. Under the HUD VASH program guidelines, income limit for eligibility may not exceed the Very Low Income (VLI) limits as defined each year by HUD.

The Authority shall have the discretion, at least annually, to exercise the "fungibility" provision of the Quality Housing Work Responsibility Act (QHWRA). This provision allows the Authority to admit less than the minimum forty percent (40%) of its extremely low-income families in a fiscal year to its public housing program to the extent that the Authority's admission of extremely low-income families in the tenant-based assistance program exceeds seventy-five percent (75%) of all admissions during the

fiscal year. If exercising this option, the Authority will follow the fungibility threshold limitations as set forth in QHWRA legislation.

The discretion by the Authority to exercise the fungibility provision is also reflected in the Authority's Public Housing Admissions and Continued Occupancy Policy (ACOP).

Authority Policy:

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

**4-I.P. CHANGE IN CIRCUMSTANCES:**

Changes in an applicant's circumstances while on the waiting list may affect the family's entitlement to a preference and/or income category. Applicants are required to update their online preapplication in the applicant portal on the Authority website as circumstances change.

When an applicant claims updates their preapplication with an additional preference, the system will place the pre-applicant on the waiting list in the appropriate order determined by the newly claimed preference. The exception to this is that 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 exceeds the extremely low-income limit and the family was selected for income targeting purposes before families with a higher preference, the family will be returned to the waiting list with the current information updated in the preapplication.

**4-I.Q. PROJECT-BASE VOUCHER UNITS DESIGNATED ELDERLY/DISABLED**

Project-Based Voucher (also known as site-based) units that are designated or designed to house elderly or disabled families must meet either of the definitions as follows:

- An elderly family: is defined as a family whose head, spouse, co-head, or sole member is a person who is 62 years of age or older;
- A disabled family: is a family whose head, spouse, co-head, or sole member is a person with a disability [24 CFR 5.403].

Preference will be given and verified thru tenant selection, for units in the project-based development designated for senior or disabled families.

**\*\*\*ADDITIONAL INFORMATION ABOUT PROJECT-BASE VOUCHERS CAN BE FOUND IN CHAPTER 23 OF THIS ADMINISTRATIVE PLAN.**

**4-I.R. OTHER HOUSING ASSISTANCE [24 CFR 982.205(B)]**

Other housing assistance is defined as a Federal, state or local housing subsidy, as determined by HUD, including Public Housing.

The Authority may not take any of the following actions because an applicant has applied for, received, or refused other housing.

- Refuse to list the applicant on the Authority 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 application, or other factors affecting selection under the Authority selection policy; or
- Remove the applicant from the waiting list.

**4-I.S. SELECTION FROM THE WAITING LIST [24 CFR 982.207(c)]**

The PHA system of preferences may select families based on local preferences according to the date and time of application or by a random selection process.

If a PHA does not have enough funding to assist the family at the top of the waiting list, it is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list.

Authority Policy:

The Authority will review voucher utilization regularly for available vouchers or funding and select applicants from its waiting list.

**4-I.T. METHOD OF SELECTION [24 CFR 982.202(d) and 982.207 (c)]**

The Authority selects families from the waiting list according to targeted income limit, preferences and/or the date and time of the pre-application.

Families who are selected from the waiting list shall be contacted by the Authority to complete a full application intake packet to determine eligibility. Applicants who refuse to complete the full application and provide the required verifications will not retain their place on the waiting list and will have their name and preapplication removed from the wait list.

The Authority 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 information is received after an applicant is approved or admitted to a program, to include but not limited to negative criminal background report, or unpaid debt owed to the Authority if it reflects information that would have determined the applicant would not have been determined eligible, will be used to investigate, deny, terminate, or withdraw admission or assistance in the HCV Program.

## **CHAPTER 5**

### **SUBSIDY STANDARDS, PAYMENT STANDARDS, & UTILITY ALLOWANCE**

**[24 CFR 982.505(C)(4)], [24 CFR 982.505],  
[24 CFR 982.517(d)]**

#### **OVERVIEW**

HUD requires the Authority to conduct mandatory briefings for applicant families who qualify for a voucher. During the briefing, the Authority provides a description of owner, family, and Authority obligations, explains the Authority's procedures, and provides instructions on leasing a unit.

This chapter outlines the requirement of ensuring that the family understands the way the program operates and their obligations while on the program. The information that is provided to the family during the briefing appointment, explanation about how the program works and what the family needs to know in order to lease a unit under the program.

The Authority must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions.

Further in this chapter tells how the Authority determines the size of unit a family qualifies for based on subsidy standards, how the voucher is used, issue and expiration date of the voucher, conditions on extensions of the term of the voucher, and the, a review of subsidy standards both at initial lease up and at annual recertification, or and when families transfer (moves) from one unit to another.

## CHAPTER 5

### 5-I.A. DETERMINING FAMILY UNIT SIZE [24 CFR 982.402]

The Authority must determine the appropriate number of bedrooms needed for different size families based on household member composition.

#### A) Purpose:

- (1) The Authority must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions;
- (2) The Authority determines the appropriate number of bedrooms under the Authority's subsidy standards (family unit size) for each family;
- (3) The Authority issues vouchers to families at initial participation and when a family transfers from one unit to another. The approved unit size is attached to the voucher that is issued to each family.

#### (B) Determining Unit Size:

The following requirements apply when the Authority determines family unit size under its subsidy standards:

- (1) The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding;
- (2) Subsidy standards must be consistent with space requirements under the housing quality standards;
- (3) The subsidy standards must be applied consistently for all families of like size and composition.;
- (4) A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determine the family unit size.;
- (5) A family that consists of a pregnant woman (with no other persons) must be treated as two-person family;
- (6) Live-In aides (preapproved by the Authority to reside in the unit to care for a family member who is disabled or is at least 50 years of age) must be counted in determining the family unit size. No

more than one bedroom will be added for a live-in aid and their family member;

- (7) A live-in aid must reside with the family to receive an additional bedroom on a voucher. The family unit size for any family consisting of a single person must be either a zero or one-bedroom unit, as determined under the Authority's subsidy standards.

(C) Effect of Family Unit Size-Maximum Subsidy:

(1) The unit size as determined for a family under the Authority's subsidy standard is used to determine the maximum rent subsidy for a family being assisted in the HCV program. The Authority must establish payment standards for voucher tenancy, by number of bedrooms.

The payment standard for a family shall be the lower of:

- The payment standard amount for family unit size; or
- The payment standard amount for the unit size of the unit rented by the family.
- Voucher Program:
  - For a voucher tenancy, the Authority establishes payment standards by bedroom size.

The payment standards for the family must be the lower of:

- i. The payment standards for the family unit size; or
- ii. The payment standard for the unit size rented by the family.

(D) Size of unit and Approved Voucher unit size:

- 1) The family may lease an otherwise acceptable dwelling unit with fewer bedrooms than the family unit (voucher) size, as long as the unit will meet the applicable Housing Quality Standards (HQS) space requirements.
- 2) The family may lease an otherwise acceptable dwelling unit with more bedrooms than the family unit size. The utility allowance will be in compliance with 982.517(d);
- 3) The Authority does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the voucher. The Authority's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines.

(E) For subsidy standards, an adult is a person 18 years of age or old;

(F) For a single person who is not elderly, disabled, or a remaining family

member, an exception cannot override the regulatory limit of a zero or one bedroom.

All standards in this section relate to the number of bedrooms on the voucher, not the family's actual living arrangements. (The Authority does not determine where members of the household sleep).

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

The Authority assigns up to two (2) persons per bedroom within the following guidelines:

- The Authority provides one (1) bedroom for the Head of Household (with the spouse, Co-head, Registered Domestic partner, Boyfriend/Girlfriend of the Head of Household, whichever is applicable) and one (1) additional bedroom for every two persons;
- Foster children will be included in determining unit size only if they will be in the unit for more than (12) months (Verification may be requested);
- Single person families shall be allocated one (1) bedroom (unless an exception as a reasonable accommodation);
- Live-in attendants will be provided a separate bedroom if the assisted unit is the live-in attendant's principle residence. No additional bedrooms are provided for the attendant's family;

Space may be provided for a child who is away at school but lives with the family during school recesses.

A single pregnant woman with no other family members must be treated as a two-person family. Single person families shall be allocated a zero or a one-bedroom voucher depending on funding availability. Space may not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military.

#### **5-I.B. EXCEPTIONS TO SUBSIDY STANDARDS [24 CFR 982.402(b)]**

The Authority may grant an exception to its established subsidy standards if the Authority determines that the exception(s) is justified by the relationship, age, sex, health or disability of family members, or other individual circumstances.

Circumstances may dictate a larger size than the subsidy standards permit when persons cannot share a bedroom because of a need or the need for additional space is warranted such as a:

- Verified medical or health reason; or
- Elderly persons or persons with disabilities who may require a live-in attendant;
- Extra bedroom for medical equipment.

Persons with disabilities: The Authority may make an exception to the subsidy standards and increase the voucher unit size as a reasonable accommodation for a disabled family.

The Authority will require verification by a physician or medical provider that the accommodation is a reasonable request and benefits the well-being of the disabled family member.

### **5-I.C. REQUEST FOR EXCEPTIONS TO SUBSIDY STANDARDS**

**[24 CFR 982.402]**

The family may request a change in the voucher unit size than that which is indicated by the Authority's subsidy standards.

The request should explain the reason for the exception (need) for justification of an exception to its established subsidy standards.

Reasons may include, but are not limited to:

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

The Authority will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage, or court-awarded custody of a current approved family member.

Persons with disabilities: Requests based on health-related reasons may be requested by a person with a disability. The Authority must verify the need for an accommodation with a person knowledgeable about the individual's disability and if the need would allow them access to the same housing opportunities as a person without a disability. (i.e., a doctor, medical, or social service professional).

When the Authority receives verification approving an additional bedroom for medical equipment, the Authority must verify that extra space is being utilized for the approved accommodation. This may include but is not limited an inspection at the unit (conducted at the Authority's discretion but at least once

annually) of the actual equipment in the extra bedroom during the annual inspection of the unit.

If it is determined that the extra bedroom is not being used for the intended purpose, the Authority may reduce the voucher size and corresponding payment standard at the family's next annual recertification.

#### Authority Error in Determination of the Voucher Unit Size:

If the Authority determines an error was made and applied an incorrect subsidy standard when determining the family's voucher unit size, the Authority will inform the family of the error and apply the correct subsidy standard for the appropriate unit size so that the family is not penalized.

#### **5-I.D. Changes in Voucher Unit Size**

##### Changes to Unit Size on Voucher- Applicant:

The voucher unit size is determined prior to the briefing by reviewing the family's household composition (age, generational factors, and gender are considered) to the current HUD approved subsidy standards.

If an applicant requires a change in the voucher size, based on the requirements of the Authority's current subsidy standards, the above referenced guidelines shall apply.

##### Changes to Unit Size on Voucher- Participants:

Members of the family residing in the unit must have prior approval from the Authority and the Landlord prior to allowing any additional members to reside in the household. The family must obtain prior written approval of every additional member prior to the person living in unit (except for additions by birth, adoption, or court-awarded custody), in which case the family must inform the Authority within thirty (30) days of the date the change took place.

(A) The Authority will consider approving additional members in the following cases: (No person may reside in the unit prior to the Authority processing and approving a request to add member)

- Spouse or partner of the Head of Household (When addition is a spouse, the Authority may require proof of a Marriage License be provided prior to approving such request.);
- Minor children of approved spouse or Domestic Partner of the head-of-household;
- Disabled elderly parent(s) or grandparent(s) of the Head of Household approved spouse or approved domestic partner;
- Court awarded custody and/or guardianship;
- Live-In Aid (although a Live-In Aid may not be considered a member of the family composition, they are part of the household composition and included in determining subsidy standards).

If the addition of an added member(s) to the household would create over-crowding and exceed the occupancy / subsidy standards located in this chapter, the Authority may deny the addition (when applicable) or inform participant they will be required to move to a larger unit.

### **5.I.E. SIZE OF UNIT OCCUPIED BY FAMILY [24 CFR 982.402(d)]**

#### Under Housed Families:

The family may lease an otherwise acceptable unit with fewer bedrooms than issued on the voucher in accordance with the family size and occupancy standards. If a unit does not meet the HQS space standards because of an increase in family size (unit too small), the family will be required to move to a unit suitable to the household composition.

The family must notify the Owner and give proper Notice to Vacate, ending the HAP contract. A new voucher will be issued to the family according to size of the household composition with the added member(s).

#### Over-Housed Families:

The family may lease an otherwise acceptable dwelling unit with more bedrooms than the number issued on the voucher in accordance with the family size and occupancy standards, or may lease a larger unit size than the voucher is issued for (based on family size) however, the approved subsidy standard for the unit size shown on the voucher does not increase and the amount of subsidy will apply the approved voucher unit size and not the actual unit size, whenever a larger voucher unit has not been approved by the Authority. Additionally, the utility allowance the Authority must apply when a family leases a unit outside of the approved unit size will be the allowance for the unit size approved on the voucher and not for the size of the actual unit.

If a participant has a decrease in family size, the family has the option to request to downsize to a smaller unit and be issued a new voucher or the family may remain in the unit they are currently at, with the understanding that if the family chooses to remain in the over/under housed unit, the subsidy and payment standard will be decreased at the next annual recertification.

If the family wishes to move a new voucher will be issued for the correct subsidy standard, based on current household composition or need.

### **5-I.F. APPLYING PAYMENT STANDARDS [24 CFR [24CFR 982.503(b)-505]**

#### (A) Effect of Family Unit Size and Tenant's-Maximum Subsidy:

The family's approved unit size as determined by the Authority's subsidy standards is used to determine the maximum rent subsidy for a family assisted in the voucher program.

For a tenant-based voucher tenancy, the Authority establishes payment standards by number of bedrooms.

The payment standard for a family shall be the *lower of*:

- The payment standard amount for the family unit size; or
- The payment standard amount for the unit size rented by the family.

Family Share of Rent:

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located (See Chapter 6 for information on how to select the appropriate payment standard).

When the PHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

(A) If the Authority's payment standard amount changes during the term of the initial HAP contract, the date on which the new standard is applied will depend on whether the payment standards have increased or decreased:

- If the payment standard amount has increased, the increased payment standard will be applied at the first annual reexamination following the effective date of the increase in the payment standard.
- If the payment standard amount has decreased during the initial term of a HAP contract, the Authority is not required to reduce the payment standard as long as the HAP contract remains in effect. At the family's second annual reexamination, the Authority may, but is not required to, apply the decreased payment standard.
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

**5-I.G. UTILITY ALLOWANCE [24 CFR 982.517]**

(A) Maintaining Utility Schedules:

(1) The Authority is required to maintain a utility allowance schedule for all tenant-paid utilities (except telephone, cable), that includes an allowance for cost of tenant-supplied refrigerators and ranges, and for other tenant-paid utility services (e.g., trash collection, appliance type (gas, electric));

(2) The Authority must provide HUD a copy of the utility allowance schedule. The Authority must provide HUD any information or procedure's used in preparation of these schedules.

(B) How Allowances Are Determined:

(1) Utility allowance schedules must be determined annually based on typical

cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality and under normal patterns of consumption for the community as a whole using current utility rate;

- (2) (i) The Utility allowance schedule, and the utility allowance for an individual family, must include the utilities and services that are necessary in the locality to provide housing that complies with the Housing Quality Standards. The Authority may not provide any allowance for non-essential utility costs, such as costs of telephone, cable and satellite television;
- (ii) The Authority must classify utilities and other housing services according to the general categories defined within the schedule (cooking, water heating, water, sewer, garbage, etc.) and other specified services;
- (3) The cost of each utility and housing service category must be stated separately by unit size (number of bedrooms) and unit types (e.g., apartment, townhouse, duplex, single-family detached) that are typical in the community;
- (4) The utility allowance schedule must be prepared and submitted in accordance with HUD requirements on the form prescribed by HUD.

(C) Revisions of Utility Allowance Schedules:

- (1) The Authority must review its utility schedule each year, and must revise its allowance for a utility category if there has been a change of ten (10) percent or more in the utility rate since the last time the utility allowance schedule was revised. The Authority must maintain information supporting its annual review of utility allowances and any revisions made in its utility allowance schedule;
- (2) At HUD's direction, the Authority must revise the utility schedule to correct any errors, or as necessary to update the schedule.

(D) Use of Utility Allowance Schedule:

- (i) The Authority must use the appropriate utility schedule for the lesser of the size of dwelling unit actually leased by the family or the family unit size as determined under the Authority's subsidy standards (e.g., Family is approved for a 2-bedroom voucher size but leases a 3-bedroom unit, the Authority must use the bedroom voucher size the family is approved for, in this case the 2-bedroom voucher size).

(E) Higher Utility Allowance A Reasonable Accommodation for A Person with Disabilities

(On request from the family that includes a person with disabilities, the Authority must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation in accordance with 24 CFR part 8 to make the program accessible to and usable by the family member with a disability.

### **5-1. H. HOUSING QUALITY STANDARDS (HQS) [24 CFR 982.405(a)]**

Subsidy standards and Housing Quality Standards (HQS) allow for two (2) persons per living area and permit maximum occupancy levels of two (2) per sleeping, (the Authority does not determine where household members must sleep).

#### **5-1. I. Occupancy Guidelines for Unit Size:**

#### **Guidelines for Determining Voucher Size:**

The Occupancy Standards used as guidelines when determining the number of bedrooms to issue to a family is provided below. These levels may be exceeded if a room, in addition to bedrooms and living room, are used for sleeping.

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.

Renting a unit larger than the voucher issued unit size approved does not increase the subsidy amount the Authority will apply to the family's rent burden. When a family leases outside of approved unit size (larger unit than what is on the voucher), and the unit rent exceeds the current published payment standard for the approved voucher unit size, the amount of subsidy the Authority pays on behalf of the family will not equal the amount show for the larger unit. Any amount in excess of the contract rent (above a payment standard for the approved unit size) creates a tenant rent burden of the differenced in amounts (Amount of rent exceeding the payment for the approved unit size increases the total tenant payment by the amount equal to the difference in rent minus payment standard) added to the family's approved unit size subsidy standard. 12

**HQS OCCUPANCY GUIDELINES FOR UNIT SIZE SELECTED**

GUIDELINES FOR DETERMINING VOUCHER SIZE

Voucher Size

Persons in Household

	Minimum Number	Maximum Number
0 Bedroom	1	2
1 Bedroom	1	4
2 Bedrooms	2	6
3 Bedrooms	3	8
4 Bedrooms	4	10
5 Bedrooms	6	12
6 Bedrooms	8	14

## **Chapter 6**

### **INCOME, ALLOWANCES, AND SUBSIDY DETERMINATIONS**

#### **24 CFR Part 5, Subparts E and F;**

#### **24 CFR 982**

### **OVERVIEW**

In this chapter, the Authority describes how income determines eligibility for assistance and is also used to calculate the family's payment and the portion the Authority will pay for the total rent in the HAP contract.

The requirements concerning the income and allowances used in determining the Total Tenant Portion (TTP). This chapter discusses a household members certain familial relationships, dependents and dependent allowances, income exclusions, adjusted income, excluded income, student status, Earned Income Disallowance (EID), assets, hardships, and determining the amount of subsidy the Authority will pay.

The Authority uses the methods as set forth in this Administrative Plan to verify and determine that family income at admission and the income continued occupancy is calculated and applied correctly. The accurate calculation of gross income and adjusted income will ensure that families are not paying more or less money for rents than their obligation under program regulations.

The formula for the calculation of TTP is specific and not subject to interpretation. The Authority's policies in this chapter address those areas which allow the Authority discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of the TTP.

## **CHAPTER 6**

### **INCOME, ALLOWANCES, AND SUBSIDY DETERMINATIONS**

#### **OVERVIEW:**

Eligibility and program criteria rules may vary depending upon the composition of the family requesting assistance. Some requirements apply to the family as a whole and others apply to individual persons who will live in the assisted unit.

In this chapter, information that is needed to correctly identify family composition and applying HUD's eligibility rules correctly to determine assistance is outlined.

A family's income determines eligibility for assistance and is also used to calculate the family's payment and the Authority's subsidy. The Authority will use the policies and methods described in this chapter to ensure that only eligible families receive assistance and that no family pays more or less than its obligation under the regulations.

## **6-I.A. FAMILY HOUSEHOLD COMPOSITION AND INCOME**

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

Each applicant for assistance under the HCV program must meet the Authority's definition of family. Within guidelines provided by HUD, the Authority has discretion in its definition of what constitutes a family.

To be eligible for assistance, an applicant must qualify as a "family". A family is either a single person or a group of persons and includes:

Family:

- A household with or without children. A child who is temporarily away from home due to placement in foster care should be considered a member of the family.
- An elderly family, which is defined as a family whose head, co-head, spouse, or sole member is at least 62 years of age; or two or more persons, each of whom are at least 62, living together; or one or more persons who are at least 62 living with one or more live-in aides.
- A disabled family, which means a family whose head, co-head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities; or one or more persons with disabilities with one or more live-in aides.
- A displaced family, which is a family in which each member or the sole member is a person displaced by governmental action, or whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized by federal disaster relief laws.
- A remaining member of a tenant family is a family member of an assisted tenant family who remains in the unit when other members of the family have left the unit.
- A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

## **6-I.B. DEFINITIONS OF HOUSEHOLD MEMBERS**

### Head Of Household"

- (a) Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a cohead or spouse.
- (b) The family may designate any qualified adult family member as the head of household. The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

### Spouse or Co-Head

A family may have a spouse or cohead, but not both.

- i. Spouse means the marriage partner of the head of household.
- ii. Spouse means the husband or wife of the head.
  - (A) 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. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

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

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

The Authority defines legal domestic partners as defined by California law and will list the partner as co-head.

Minors who are emancipated under state law may be designated as a cohead. Other adult means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults.

### Dependent

A dependent is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, cohead, foster children/adults and live-in aides.

### Joint Custody of Dependents

- (A) When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial certification or annual recertification will be able to claim the dependents. If there is a dispute about which family should claim them, the Authority will make the determination documents such as court orders, school records or an IRS tax return showing which family has claimed the child for income tax purposes.
- (B) Children who are subject to a joint custody agreement but live-in the unit at least 51% 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. (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, "51 percent of the time" is defined as 183 days of the year, (which do not have to run consecutively).
- (C) If children are 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. There will be a self-certification required of families who claim joint custody or temporary guardianship.

In instances, where both parents 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 Authority will do an investigation with the welfare department and will make a determination based on that investigation.

Other factors that the Authority 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 care of child(ren);
- Any other court documents pertaining to custody or details of support for the child.

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

Identifying each FTS is important because:

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

### **6-I.C. ELDERLY, NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY**

Elderly Persons:

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

Near-Elderly Persons:

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

Elderly Family:

- ii. An elderly family is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because elderly families qualify for the elderly family allowance of \$400.00.

Only one (1) elderly person per household can receive the allowance.

### **6-I.D. Persons With Disabilities And Disabled Family**

Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or co-head is a person with disabilities.

These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability. The Authority must make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

(a) Disabled Family

A disabled family is one in which the head, spouse, or cohead is a person with disabilities.

A disabled family member qualifies for the disabled family allowance.

### **6-I.E. GUESTS**

A guest is a person temporarily staying in the unit with the consent of an adult member of the household.

The Authority defines an "unauthorized household member" as:

- Any adult not listed in the HUD 50058 form as a family member;
- Who has been in the unit more than fourteen (14) consecutive days without the approval of the Authority; or
- Has been in the unit for a total of thirty (30) days in a twelve (12) month period (accumulative days), will be considered to be living in the unit as an unauthorized household member.

#### Authority Policy

Absence of evidence of any other address will be considered verification that the visitor is a member of the household. Statements from neighbors and/or the landlord will be considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

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 assisted household. The Authority may seek to terminate housing assistance for violation of Family Obligations. Only approved member of the assisted household may reside in the unit without prior approval by the Authority and Owner.

Minors and college students who are part of the family but who now live away from home during the school year and no longer listed on the lease may visit for up to ninety (90) days per year without being considered a member of the household and without being considered an unauthorized household member.

In a joint custody arrangement, if the minor is in the household less than 183 days per year (51%), the minor will be considered to be an eligible visitor and not a family member.

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

When it is anticipated that a guest's stay may exceed the allowable length of time (14 consecutive days or 30 accumulative days), the family may report and request an exception to extend the stay. All exceptions must have prior consent by the Authority and Owner prior to becoming suspect to violating the Family Obligations.

### **6-I.F. FOSTER CHILDREN AND FOSTER ADULTS**

Foster Child: The term foster child is not specifically defined by the regulations.

Foster Adults: Persons with disabilities, unrelated to the tenant family, who are unable to live alone

Foster children and foster adults who are living with an applicant or resident family: Are considered household members but not family members.

The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction

Third-party verification: From the state or local government agency responsible for the placement of the individual with the family will be required

Families must promptly notify the Authority and request approval to add any other member as an occupant of the

Families must promptly, within thirty (30) days notify the Authority if any family member no longer lives in the unit.

A foster child or live-in aide may reside in the unit with Authority approval. The Authority has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when Authority consent may be given or denied.

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

- i. Foster children will be included in determining bedroom size,
- ii. Foster children and foster adults are never considered dependents.

Live-In Aides:

(a) family that consists of one or more elderly, near-elderly or disabled person may request that the Authority approve a live-in aide to reside in the unit and provide necessary supportive services for the family member who is a person with disabilities. The Authority must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR part 8 to make the program accessible to and usable by the family member with a disability.

(b) At any time, the Authority may refuse to approve a particular person as a live-in aide, or may withdraw such approval if:

- 1. The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;
- 2. 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;

3. The live-in aide owes any amounts of money to any federal housing program;
4. The live-in aide has drug related criminal activity or violent criminal activity as pertains to this administrative plan, or HUD regulations;
5. The live-in aide has employment outside of the home;
6. Another person is residing in the unit who is capable of providing care.

The Authority will not grant additional bedrooms for a live-in aide's family member(s). The Authority will assign one (1) bedroom for a live-in aide and its family members. In the event that this may cause over-crowding, the Authority may deny the selected live-in aide and the family may submit a request to add a different live -in aide.

Participant requiring live-in aide must supply the Authority 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.

Verification will be required at the initial time the live-in aide begins to reside in the subsidized unit and at each annual recertification.

In instances where the family receives payments from Human Services through the In-Home Supportive Services (IHSS) program, the live-in aide approved by the Authority must be the same person on record with IHSS who is receiving payment to care for the family member. The Authority may deem it necessary to reverify 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.

Live in aide status cannot be changed to reflect as a "family member" status. The aide is in the unit solely to provide care for the member. When the family subsidy terminates, the live-in aide is not entitled to inherit the voucher assistance.

## **6-I.G. 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 Authority does not have to consider this a change in family composition.

Any adult not included on the HUD 50058 form who has been in the unit more than fourteen (14) consecutive days (construed as overnight stays) without Authority approval, or a total of thirty (30) accumulative days in a twelve (12) month period, may be considered to be living in the unit as an unauthorized household member.

The Head of Household must disclose the use of the address by any other person who is not listed in the household composition,

Absence of evidence of any other address will be considered verification that the visitor is a member of the household.

Statements from neighbors and/or the landlord, as well as other evidence presented will be considered in making the determination. Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary shall be construed as permanent residence.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual may be considered an unauthorized member of the household and the Authority may terminate assistance.

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 up to 90 days per year without being considered a member of the household (nor will they be considered an unauthorized member).

## **6-I.H. REPORTING ADDITIONS TO OWNER AND AUTHORITY**

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

The family obligations require the family to request prior Authority approval to add any other family member as an occupant of the unit and to inform the Authority of the birth, adoption or court-awarded custody of a child. The family must request prior approval from the Authority to add additional family members to the household. 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.

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 Authority within 30-days of the change.

In addition, the Authority 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.

The Authority will check criminal history for all adults requested to be added into a household to determine whether that person has violated any of the prohibited behaviors as referenced in the section on screening and termination's policy of this Administrative Plan.

The Authority performs criminal history background checks to determine whether any household member is subject to a lifetime sex offender registration requirement at initial final eligibility, annual recertifications, and request to add household member, to include but not limited to the use of the Dru Sjordin National Sex Offender database located at [www.nsopw.gov](http://www.nsopw.gov).

If the family does not obtain prior written approval from the Authority, any person the family has permitted to move in will be considered an unauthorized household member. In the event that a visitor continues to reside in the unit after the maximum allowable time, the family must report it to the Authority in writing within thirty (30) days of the maximum allowable time.

If the change is reported more than 60 days prior to an annual reexamination, the addition of family member may be completed and made effective with the reexamination date. If it is more than 60 days prior to or any time after the annual reexamination, the change will be done as an interim.

The Authority will not increase the voucher to a larger unit size due to additions to the household except when applicable to the addition of a family member by birth, adoption, marriage or court-awarded custody.

### **6-I.I. REPORTING ABSENCES to the AUTHORITY**

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

If a family member leaves the household, the family must report this change to the Authority, in writing, within thirty (30) days of the change and certify as to whether the member is temporarily absent or permanently absent. This includes a live-in aide.

The Authority will conduct an interim evaluation for changes which affect the Total Tenant Payment (TTP) in accordance with the interim policy.

### **6-I.J. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT**

**[24 CFR 982.312]**

It is the responsibility of the head of household to report changes in family composition. The Authority will evaluate temporarily or permanent absences from the unit as outlined in HUD guidelines and the Authority policy in this chapter of the Administrative Plan.

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

#### Authority Policy:

Generally, an individual who is or is expected to be absent from the assisted unit for 90 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally, an individual who is or is expected to be absent from the assisted unit for more than 90 consecutive days is considered permanently absent and no longer a family member.

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

- Write letters to the family at the unit;
- Telephone the family at the unit;
- Interview neighbors;
- Verify if utilities are in service; and/or
- Check with the Post Office.

### **6-I.K. Absence From The Unit [24 CFR 982.312]**

Any member of the household will be considered permanently absent if they are away from the unit for more than 90 consecutive days except as otherwise provided in this Administrative Plan.

“Temporarily absent” is defined as a member of the family who is away from the unit for more than thirty (30) days.

Members of the family who are in the military, members who are away attending 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. Full time students may be exempt from being permanently removed (Refer to Full Time Students section of this chapter).

The 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.

The family may be absent from the unit for brief periods. The family may not be absent from the unit for a period of more than 180 consecutive calendar days in any circumstance, or for any reason. At the Authority’s discretion, the Authority may allow absence for a lesser period of time.

If a member of the household is subject to a court order that restricts them from the home for more than ninety (90) consecutive days, the person will be considered permanently absent.

Housing assistance payments terminate if the family is absent for longer than the maximum period permitted. The term of the HAP contract and assisted lease also terminate.

The owner must reimburse the Authority for any housing assistance payment for the period after the termination.

Absence means that no member of the family is residing in the unit.

The family must supply information or certification requested by the Authority to verify that the family is residing in the unit, or relating to family absence from the unit. The family must cooperate with the Authority for this purpose. The family must promptly notify the Authority of an absence from the unit, including information requested on the purposes of family absences.

### **6-I.L. Absence From The Unit: Other Reasons**

The Authority will verify family occupancy or absence, including letters to the family addressed to the unit, phone calls, visits, or question landlord or neighbors if it suspects the family is absent from the unit.

This section provides methods the Authority may take in each instance outlined as follows:

#### **Absence due to hospitalization:**

- If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, the Authority 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 Authority's "Absence of Entire Family" policy later in this chapter.

#### 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 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 sixty (60) consecutive days, they will be considered permanently absent.

Any member of the household, other than the sole member, will be considered permanently absent if they are incarcerated for sixty (60) consecutive days or 90 days in a twelve-month period.

The Authority will determine if the reason for incarceration is prohibited criminal activity or violent criminal activity that is grounds for termination of housing assistance.

#### Absence of Children due to Placement in Foster Care:

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

If a child has been placed in foster care, the Authority will verify with the appropriate agency whether and when the child/children is expected to be returned to the home.

If the time period is to be greater than twelve (12) months, the voucher size will be reduced at the annual recertification after one year has elapsed since the removal of the children. If all children are removed from the home permanently, the voucher size will be reduced in accordance with the Authority's subsidy standards.

#### 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 Authority will terminate assistance in accordance with appropriate termination procedures contained in this Administrative Plan.

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

Families must notify the Authority if they are going to be absent from the unit for at least thirty (30) days before leaving the unit if they are going to be absent from the unit for more than thirty (30) consecutive days.

#### Persons with Disabilities:

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

#### Caretaker for Children:

- If neither parent remains in the household and 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 Authority will treat that adult as a visitor for the first sixty (60) days.

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

If the appropriate agency cannot confirm the guardianship status of the caretaker, the Authority will review the status at ninety (90) day intervals. If custody or legal guardianship has not been awarded by the court, but the action is in process, the Authority will secure verification from social services staff or the attorney as to the status.

If custody is awarded for a limited time in excess of stated period, the Authority will state in writing that the transfer of the voucher is for that limited time or as long as they have custody of the children. The Authority 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 Authority 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 six (6) months and it is reasonable to expect that custody will be granted.

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

#### 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 Authority will secure verification from social services staff or the attorney as to the status
- Written approval from the owner of the unit.

## Family Breakup:

Except under the following conditions, the Authority 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 Authority must ensure that the victim retains assistance.
- For Veterans Affairs Supportive Housing (HUD-VASH) vouchers, when the veteran is the perpetrator, of domestic violence, dating violence, sexual assault, or stalking, the victim must continue to be assisted. Upon termination of the perpetrator's HUD-VASH voucher, the victim should be given regular HCV if one is available, and the perpetrator's HUD-VASH voucher should be used to serve another eligible family. If a regular HCV is not available to another eligible family upon the voucher's turnover.
- If a court determines the disposition of property between the members of an assisted family the Authority is bound by the court's determination of which family members continue to receive assistance.

It is the Authority's policy that 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 Authority will determine which family will retain their placement on the waiting list or continue to receive assistance.

In making its determination, the Authority 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.

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

The Authority shall require verification of the above (applicable) circumstances. If either or both of the families do not provide the documentation requested, the Authority may terminate the Voucher for failure to provide requested verifications.

#### Remaining Member of a Tenant Family:

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 this chapter for the policy on “Caretaker of Child.

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

#### **6-I.M. FAMILY INCOME AND TOTAL TENANT PAYMENT (TTP): [24 CFR 5.609]**

##### (A) Income [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 Code of Federal Regulations (CFR).

In accordance with this definition, all income which is not specifically excluded in the regulations is counted.

A family’s income determines eligibility and is used to calculate the family’s payment and the Authority’s subsidy. The Authority will use the polices and methods described in this Administrative Plan to ensure that only eligible

families receive assistance and that no family pays more or less than its obligation under regulations.

(B) Anticipating Annual Income [24 CFR 5.609]

Annual income is defined as the gross amount of income anticipated to be received by the family during the twelve (12) months after certification. Gross income is the amount of income prior to any HUD allowable expenses or deductions.

In determining initial eligibility, annual income is used to determine if an applicant income exceeds the very-low income (or extremely low) limit or is within the applicable income limits selected under.

Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

In addition to this general definition, HUD regulations establish policies for treating specific types of income and assets as follows:

- Annual Income Inclusions
- Annual Income Exclusions
- Treatment of Family Assets
- Earned Income Disallowance for Persons with Disabilities
- The Effect of Welfare Benefit Reduction

Basis of Annual Income Projection:

The Authority generally will use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the Authority to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected;
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal or cyclic income); [24 CFR 5.609(d)]
- The Authority believes that past income is the best available indicator of expected future income.

The Authority is required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance.

HUD allows Authority's to use tenant-provided documents (pay stubs) to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the Authority does not determine it is necessary to obtain additional third-party data.

When EIV is obtained and the family does not dispute the EIV employer data, the Authority will use current tenant-provided documents to project annual income. When the tenant- provided documents are pay stubs, the Authority will make every effort to obtain a minimum of two (2) current and consecutive pay stubs.

Note: Documents older than 60 days from the Authority's interview/determination or request date are acceptable for confirming dates of income.

The Authority will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in this Administrative Plan in the following cases:

- If EIV or other UIV data is not available,
- If the family disputes the accuracy of the EIV employer data, and/or If the Authority determines additional information is needed.

In such cases, the Authority will review and analyze current data to anticipate annual income.

In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how the Authority annualized projected income.

- i. When the Authority cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the Authority will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.
- ii. Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to

the Authority to show why the historic pattern does not represent the family's anticipated income.

Earned Income:

Income means all amounts, monetary or not, which:

- (a) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (b) Are anticipated to be received from a source outside the family during the 12-month period following admission or I reexamination effective date; and
- (c) Which are not specifically excluded in sections "Excludable Income" and "Federally mandated Income Exclusions" located later in this section;

Income includes, but is not limited to:

- The full gross amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- 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;
- 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.
- 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;

- The full number 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);
- Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay;
- Welfare assistance payments.

Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:

- Qualify as assistance under the TANF program definition at 45 CFR 260.31; and are not otherwise excluded. The full award benefit is calculated even if a family is sanctioned for non-compliance with TANF and receiving less.

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;

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).

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.

### Averaging Income:

When annual income cannot be anticipated for a full twelve (12) months, the Authority may average known sources of income that vary to compute an annual income, or annualize current income and conduct an interim reexamination if income changes.

The Authority is required to count all income anticipated to be received from a source outside the family during the next 12-month period following admission or annual recertification effective date”

The Authority will generally use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the Authority to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected
- It is not feasible to anticipate a level of income over a 12-month period (e.g., seasonal, etc.)

The Authority believes that past income is the best available indicated of expected future income

The Authority is required to use HUD’s Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance.

HUD allows the Authority to use tenant-based provided documents to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the Authority does not determine it is necessary to obtain additional third-party data.

- (a) It is the policy of the Authority that when EIV is obtained and the family does not dispute the EIV employer data, the Authority will use current tenant-provided documents to project annual income. When the tenant provided documents are pay stubs, the Authority will make every effort to obtain minimum of two (2) current and consecutive pay stubs.

Documents older than 60 days from the Authority interview/determination or record date are acceptable for confirming dates of income.

The Authority will obtain written and oral third-party verification in accordance with the verifications policy in the following cases:

- If EIV or UIV data is not available;
- If the family disputes the accuracy of the EIV employer data; and/or
- If the Authority determines additional information is needed.

- (i) In such cases, the Authority will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how.

When the Authority can't readily anticipate income based on current circumstance (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the Authority will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish income

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

If there are bonuses or overtime which the employer cannot anticipate for the next twelve (12) months, bonuses and overtime received the previous year will be used.

If, by averaging an estimate can be made for those families whose income fluctuates from month to month, this estimate will be used so as to reduce the number of interim adjustments. The method used depends on the regularity, source and type of income.

Minimum Income:

There is no minimum income requirement. Families who report zero income are required to undergo an interim recertification every ninety (90) days.

Families that report zero (\$0) income will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc., by completing a Monthly Expenditure Form.

The Authority may request credit checks for all adult members of families who report zero income. Where credit reports show credit accounts open and payments current, the Authority will take action to investigate the possibility of fraud or program abuse.

If the family's expenses exceed their known income, the Authority will make inquiry of the head of household as to the nature of the family's accessible resources.

### Income of Person Permanently Confined for Medical Reasons:

If a family member is nursing home or hospital permanently, that person is no longer considered a family member and the income of that person is not counted.

The Authority will seek verification from a reliable qualified source as to the likelihood and timing of their return. If 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 180 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.

### 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 (TTP).

Any contribution or gift received every six (6) 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.

If the family's expenses exceed its known income, the Authority will inquire of the family regarding contributions and gifts.

### Alimony and Child Support:

Regular alimony and child support payments are counted as income for calculation of Total Tenant Payment (TTP). If the amount of child support or alimony received is less than the amount awarded by the court, the Authority will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and verification of item(s) below are provided.

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

- The Authority receives verification from the agency responsible for enforcement or collection.
- The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney.
- It is the family's responsibility to supply a certified copy of the divorce decree.

### Lump-Sum Payments [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 is not included in income but may be included in assets.

Lump-sum payments caused by delays in processing periodic payments such as (unemployment or welfare assistance) are counted as income. Lump sum payments from the Social Security Administration (SSA) or Supplemental Security Income (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 the amount of retroactive tenant rent that the family owes as a result of the lump sum receipt:

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

### **6-I.N. 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:

- The entire lump-sum payment will be added to the annual income at the time of the interim;
- The Authority 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);
- At the next annual recertification, the Authority will apply the percentage balance (75% in this example) to the lump sum and add it to the rest of the annual income;
- 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 Authority and family may enter into a Payment Agreement, with the approval of the Director of Housing Programs, for a partial of the lump sum receipt, not to exceed 50% of the total amount.

**6-I.O. RETROACTIVE CALCULATION METHODOLOGY:**

The Authority will go back to the date the lump-sum payment was received, or to the date of admission, whichever is closer.

The Authority 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 Authority.

The family has the choice of paying this “retroactive” amount to the Authority in a lump sum. At the Authority's option, the Authority may enter into a payment agreement with the family. Otherwise, the family will need to pay the full amount due to the Authority. 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.

**6-I.P. CONTRIBUTIONS**

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

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

**6-I.Q. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

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

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

The Authority'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 Authority will not verify the assets or count the income from such assets.

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

### **6-I.R. CHILD CARE EXPENSES [24 CFR 5.603]**

Child care expenses for children under the age of thirteen (13) years old may be deducted from annual income if they enable an adult to work or attend school full time, or to actively seek employment. In the case of a child attending private school, only after-hours care can be counted as child care expenses.

In cases where an adult family member is available to provide child care, child care expenses will not be allowed as a deduction unless there is a documented reason that the family member is unable to care for the child.

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.

**(a)** Allowable deductions for child care expenses are 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.

### Amount of Expense

The Authority will survey the local care providers in the community and collect data as a guideline. If the hourly rate materially exceeds the guideline, the Authority may calculate the allowance using the guideline.

## **6-I.S. Medical Expenses [24 CFR 5.603]**

When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, the Internal Revenue Service (IRS) Publication 502 will be used as a guide.

Non-prescription medicines and chiropractic care must be doctor recommended in order to be considered a medical expense. Non-prescription medicines will be counted toward medical expenses for families who qualify if the family furnishes legible receipts.

## **6-I.T. Medicare Drug Prescription Program (Part D):**

### (a) Medicare Prescription Drug Benefits

The Authority 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 Authority 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.

#### Service Animals:

Family's residing in Authority owned units will be required to provide verification that the family or member of the household's request for a service animal is necessary to provide specific "service" for the disabled member and that:

- Such documentation is sufficient if it establishes that an individual has a disability and that the animal in question will provide some type of disability-related assistance or emotional support.
- The Authority will require certification from a professional service provide, a physician, psychiatrist, social worker, or other mental health professional that the animal provides emotional support that alleviates one or more of the identified symptoms or effects of an existing 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.

Mileage: 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 that will be allowed.

### Medicare prescription drug coverage:

Insurance that covers both brand-name and generic prescription drugs at participating pharmacies. Medicare prescription drug coverage provides protection for people who have very high drug costs. Everyone with Medicare, regardless of income, health status, or prescription drug usage, will have access to prescription drug coverage beginning on January 1, 2006, as follows:

- Low income families with limited assets will qualify, but family must enroll in a plan that meets their prescription drug needs;
- Persons receiving Supplemental Security Income (SSI) will automatically qualify;
- A one-time \$600 subsidy (transitional assistance) will be provided to eligible Medicare beneficiaries. This subsidy must be excluded as income. The family may provide this verification (the Authority may require third-party verification).
- Un-reimbursed out-of-pocket expenses for prescription drugs must be counted in the family's medical expense deduction;
- Some persons may be required to pay a monthly premium, up to \$37.00 of which is counted as a medical deduction. The family may pay the premium directly or it may be deducted directly from their SSI check.

Families are not required to report they have enrolled until their next recertification.

### **6-I.U.PRO-RATION OF ASSISTANCE FOR "MIXED" FAMILIES [24 CFR 5.520]**

#### Applicability:

Pro-rating of assistance must be provided 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.

#### Pro-rated Assistance Calculation:

Pro-rated 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. Calculations for each housing program are performed on the HUD 50058 form.

## **6-I.V. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS**

The Authority 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;
- Failure to participate in an economic self-sufficiency program; and/or
- Noncompliance with a work activities requirement.

The Authority will reduce the rental contribution if the welfare assistance reduction is a result of:

- The expiration of a lifetime time limit on receiving benefits;
- A situation where a family member has not 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:

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 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.

## **6-I.W. VERIFICATION BEFORE DENYING A REQUEST TO REDUCE RENT**

The Authority 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.

At the request of the Authority, the welfare agency will inform the Authority of:

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

#### **6-I.X. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS**

When funding is available, the Authority will provide families an allowance for tenant paid utilities. The same utility allowance schedule is used for all tenant-based programs.

The utility allowance is intended to cover the cost of utilities not included in the rent. The allowances are based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. Allowances are not based on an individual family's actual energy consumption.

The Authority 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.

The Authority's utility allowance schedule and the utility allowance for an individual family must include the utilities and services that are necessary in the locality to provide housing that complies with the Housing Quality Standards (HQS). The Authority may not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

The Authority must classify utilities in the utility allowance schedule according to the following general categories:

- Space heating;
- Air conditioning;
- Cooking;
- Water heating;
- Water, sewer, trash collection;
- Other electric;
- Refrigerator (for tenant-supplied refrigerator);
- Range (for tenant-supplied range); and
- Other services as specified by HUD.

A tenant-paid air conditioning allowance will be provided throughout the county's jurisdiction. The air conditioning allowance will only be granted to families in the area when the Authority has confirmed that the unit has an air conditioner in the unit.

The approved utility allowance schedule for the unit size on the voucher is applied to the max rent burden estimate provided to the family at the time a voucher is issued. The utility allowance is based on the actual voucher bedroom size issued to the family and not the unit bedroom size if different than the unit bedroom size shown on the voucher.

When the calculation on the HUD 50058 form results in a utility reimbursement payment due to the family, the Authority has discretion and may make a utility reimbursement payment directly to the utility service provider that provides the services to the family's assisted unit. When this option is used, the payment will be made directly to the utility service provider.

#### **6-I.Y. EXCLUDABLE INCOME [24 CFR 5.609 (c)]**

Annual income does not include the following types of income and will not be counted as annual income:

- Income from employment of children (including foster children) under the age of 18;
- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone);
- Lump-sum additions to the family assets (counted as assets) such as inheritances, insurance payments (including payments under accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as outlined in this chapter).
- Medical reimbursements – Amounts received by the family that are specifically for, or reimbursement of, the cost of medical expenses for any family member;
- Income of live-in aide (CFR 5.403) (6);

- Full amount of student financial assistance (tuition and expenses related to attending an institution of higher education, except as defined above);
- Special armed forces pay if exposed to hostile fire made to a family member;
- Amounts received under training programs funded by HUD;
- Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self Sufficiency (PASS);
- Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.), and which made solely to allow participant in a specific program;
- Resident service stipends. A resident service stipend are amounts received under a resident service stipend. A resident stipend is a modest amount (not to exceed \$200.00 per month) received by a resident for performing a service for the Authority or Owner, on a part-time basis, that enhances the quality of life in the development. Services include but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the Authority's governing board. No resident may receive more than one such stipend during the same period of time;
- Incremental earnings and benefits resulting to any family member from participation in qualifying State or local employment training programs (including training programs not affiliated with a local government).and training a family member as a resident management staff;
- Temporary, non-recurring or sporadic income (including gifts);
- Holocaust reparation payments (Reparation payments paid by a foreign government);
- Earnings in excess of \$480.00 for each full-time student 18 years of age or older (excluding head of household and spouse);

- Adoption assistance payments in excess of \$480.00 per adopted child;
- Temporary payments from the U.S. Census Bureau for employment lasting longer than 180 days;
- Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veteran Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts;
- Amounts received by the family in the form of refunds or rebates under State and local law for property taxes paid on the dwelling;
- Amounts paid by a State agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home;
- Amounts specifically excluded by any other Federal Statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs to which the exclusions set forth in 24 CFR 5.609 (c) apply. (Notices published in the Federal Register and distributed to Housing Authorities and housing owners identifying the benefits that qualify for such exclusion will be distributed when necessary);
- Amounts in an individual's "ABLE" account will be excluded from household actual or imputed interest on the account balance will not be counted as income. Distributions from the ABLE account are also not considered income. All wage income received, regardless of which account the money is paid to, is included as income.

#### Children's Earnings:

Employment income earned by children (including foster children) under the age of 18 years is not included in annual income.

#### Certain Earned Income for Full-Time Students:

Earnings in excess of \$480.00 for each full-time student 18 years of age or older (except for the head, spouse, or cohead) are not counted. (24 CFR

5.609(c) (11). To be considered "full-time", a student must be considered "full-time" by an educational institution with a degree or certificate program.

#### Income of a Live-In Aide:

Income earned by a live-in aide, as defined in [24 CFR 5.403], is not included in annual income (see Eligibility chapter for further information on live-in aides).

#### Income Earned under Certain Federal Programs [24 CFR 5.609(c) (17)]

Income from some federal programs is specifically excluded from consideration as income, including:

- Payments to volunteers under the Domestic Volunteer Services Act of 1973;
- Awards under the federal work-study program;
- Payments received from programs funded under Title V of the Older Americans Act of 1985;
- Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990;
- Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998.

### **6-I.Z. ANNUALIZATION OF INCOME**

If it is not feasible to anticipate a level of income over the next 12-month period (e.g., season or cyclic income), or the Authority believes that past income is the best available indicator of expected future income, the Authority may annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

#### Adjusted Income [24 CFR 5.611]:

HUD regulations require the Authority to deduct from annual income any of mandatory deductions for which a family qualifies. The resulting amount is the family's adjusted income. Mandatory deductions are found in 24 CFR 5.611

Adjusted income means annual income (as determined by the responsible Authority, and as defined in 5.100 and 5.603) of the members of the family

residing or intending to reside in the dwelling unit, after making the following deductions:

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

HUD's allowable deductions from annual income are outlined below:

- Dependent Allowance: \$480 for each family member (other than the head or spouse) who are minors or who are 18 and older and are full-time students or any adult member(s) of the household who are disabled;
- Elderly/Disabled Allowance: \$400 per family for families whose head or spouse is 62 or over or disabled;
- Allowable Medical Expenses: Deducted for all family members of an eligible elderly/disabled family;
- 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;
- 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.

#### **6-I.Aa. TOTAL TENANT PAYMENT [24 CFR 5.628]**

Determining total tenant payment (TTP):

Total tenant payment is the highest of the following amounts, rounded to the nearest dollar:

- 30 percent of the family's monthly adjusted income;
- 10 percent of the family's monthly income;
- If the family is receiving payments for welfare assistance from a Public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments is so designated; or
- The minimum rent, as determined in accordance with 5.630.

Minimum Rent [24 CFR 5.630]:

The “minimum rent” burden is \$50. Minimum rent refers to the Total Tenant Payment (TTP) and includes the combined amount a family pays towards rent and/or utilities when it is applied.

- (i) The Authority must charge a family no less than a minimum monthly rent established by the Authority, except as described in “financial hardship” section of this chapter;
- (ii) Public Housing program and the Section 8 moderate rehabilitation, and certificate or voucher programs, the Authority may establish a minimum rent of up to \$50.00;
- (iii) For other Section 8 programs, the minimum rent is \$25.00.

Financial Hardship:

When a family is eligible for minimum rent:

The Authority must grant an exemption from payment of minimum rent if the family is unable to pay the minimum rent because of financial hardship:

- When the family has lost eligibility for or is awaiting an eligibility determination for assistance, including a family that includes a member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Act of 1996;
- When the family would be evicted because it is unable to pay the minimum rent;
- When the income of the family has decreased because of changed circumstances, including loss of employment;
- When a death has occurred in the family; and
- Other circumstances determined by the Authority or HUD.

When a family requests a financial hardship exemption, the Authority must suspend the minimum rent requirement beginning the month following the family's request for a hardship exemption until the Authority determines whether there is a qualifying financial hardship, and whether such hardship is temporary or long term.

Under the HCV programs:

- The Authority must promptly determine whether a qualifying hardship exists and whether it is temporary or long term;
- If it is determined that a qualifying hardship is temporary, the Authority must not impose the minimum rent during the 90-day period beginning the month following the date of the family's request for a hardship exemption. At the end of the 90-day suspension period, the Authority must reinstate the minimum rent from the beginning of the suspension. The family must be offered a reasonable repayment agreement, on terms and conditions established by the Authority, for the amount of back rent owed by the family.

All Programs:

- If the Authority determines there is no qualifying financial hardship exemption, the Authority must reinstate the minimum rent, including back rent owed from the beginning of the suspension. The family must pay the back rent on terms and conditions established by the Authority.

Hardship Requests for an Exception to Minimum Rent [24 CFR 5.630]:

The Authority recognizes that in some circumstances even the minimum rent may create a financial hardship for families. The Authority will review all relevant circumstances brought to the Authority's attention regarding financial hardship as it applies to the minimum rent. The following section states the Authority'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.

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 non-citizen lawfully admitted for permanent residence under the Immigration and Nationality Act, and who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996;

- The family would be evicted as a result of the 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 Authority or HUD

Notification to Families of Right to Hardship Exception:

The Authority will notify all families subject to minimum rents 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 thirty percent (30%) of monthly adjusted income, ten percent (10%) of monthly income, minimum rent or welfare rent.

If the minimum rent is the greatest figure in the calculation of TTP, Authority staff will include a copy of the notice regarding hardship request provided to the family in the family's file.

The Authority notification will advise families that hardship exception determinations are subject to Authority review.

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

The Authority requires that all requests for minimum rent hardship exceptions be submitted to the Authority in writing.

The Authority will request documentation as proof of financial hardship.

The Authority will use its standard verification procedures to verify circumstances which have resulted in financial hardship.

Requests for minimum rent exception must include a statement of the family hardship that qualify the family for an exception.

### Suspension of Minimum Rent:

The Authority 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 Authority determines whether the hardship is:

- Covered by statute;
- Temporary or long term.

“Suspension” means that the Authority must not use the minimum rent calculation until the Authority has made this 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 Authority determines that the minimum rent is not covered by statute, the Authority will impose a minimum rent including payment for minimum rent from the time of suspension.

### Temporary Hardship:

If the Authority determines that the hardship is temporary, a minimum rent will not be imposed for a period of up to ninety (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 suspension.

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

- (A) If it is determined that a qualifying hardship is temporary, the Authority must not impose the minimum rent during the 90-day period beginning the month following the date of the family’s request for a hardship exemption. At the end of the 90-day suspension period, the Authority must reinstate the minimum rent from the beginning of the suspension. The family must be offered a reasonable repayment agreement, on terms and conditions established by the Authority, for the amount of back rent owed by the family.

### Long-Term Duration Hardships:

If the Authority determines that there is a qualifying long-term financial hardship, the Authority 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 Authority 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 Authority will offset the family's future rent contribution payments by the amount in which the Authority owes the family.

**6-I.Ab. AVERAGING INCOME**

When annual income cannot be anticipated for a full twelve (12) months, the Authority may average known sources of income that vary to compute an annual income, or annualize current income and conduct an interim reexamination if income changes.

The Authority is required to count all income "anticipated to be received from a source outside the family during the next 12-month period following admission or annual recertification effective date"

The will generally use current circumstances to determine anticipated income for the coming 12-month period. HUD authorizes the Authority to use other than current circumstances to anticipate income when:

- An imminent change in circumstances is expected;
- It is not feasible to anticipate a level of income over a 12-month period (seasonal, etc.);
- The Authority believes that past income is the best available indicated of expected future income (24 CFR 5.609(d))

The Authority is required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance.

HUD allows the Authority to use tenant-based provided documents to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where the Authority does not determine it is necessary to obtain additional third-party data.

Authority Policy:

It is the policy of the Authority that when EIV is obtained and the family does not dispute the EIV employer data, the Authority will use current tenant-provided documents to project annual income. When the tenant provided

documents are pay stubs, the Authority will make every effort to obtain minimum of two (2) current and consecutive pay stubs.

Documents older than 60 days from the Authority interview/determination or record date are acceptable for confirming dates of income.

The Authority will obtain written and oral third-party verification in accordance with Authority policy found in Chapter 7 "Verifications" in the following cases:

- If EIV or UIV data is not available;
- If the family disputes the accuracy of the EIV employer data; and/or
- If the Authority determines additional information is needed.

In such cases, the Authority will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how.

When the Authority can't readily anticipate income based on current circumstance (in the case of seasonal employment, unstable working hours, or suspected fraud), the Authority will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish income.

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

If there are bonuses or overtime which the employer cannot anticipate for the next twelve (12) months, bonuses and overtime received the previous year will be used.

If, by averaging an estimate can be made for those families whose income fluctuates from month to month, this estimate will be used so as to reduce the number of interim adjustments. The method used depends on the regularity, source and type of income.

#### Minimum Income:

There is no minimum income requirement. Families who report zero income are required to undergo an interim recertification every ninety (90) days.

Families that report zero (\$0) income will be required to provide information regarding their means of basic subsistence, such as food, utilities,

transportation, etc., and may be required to complete the "Monthly Expenditure Form", self-certifying the information provided.

The Authority may credit perform credit checks for all adult members of families who report zero income. Where credit reports show credit accounts open and payments current, the Authority will act to investigate the possibility of fraud or program abuse.

If the family's expenses exceed their known income, the Authority will make inquiry of the head of household as to the nature of the family's accessible resources.

#### Income of Person Permanently Confined for Medical Reasons:

If a family member is nursing home or hospital permanently, that person is no longer considered a family member and the income of that person is not counted.

The Authority will seek verification from a reliable qualified source as to the likelihood and timing of their return. If 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 180 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.

#### 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 (TTP).

Any contribution or gift received every six (6) 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.

If the family's expenses exceed its known income, the Authority will inquire of the family regarding contributions and gifts.

#### Alimony and Child Support:

Regular alimony and child support payments are counted as income for calculation of Total Tenant Payment (TTP). If the amount of child support or alimony received is less than the amount awarded by the court, the Authority will use the amount awarded by the court unless the family can verify that they are not receiving the full amount and verification of item(s) below are provided.

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

- The Authority receives verification from the agency responsible for enforcement or collection;
- The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney;
- It is the family's responsibility to supply a certified copy of the divorce decree.

#### Lump-Sum Payments [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 is not included in income but may be included in assets.

Lump-sum payments caused by delays in processing periodic payments such as (unemployment or welfare assistance) are counted as income. Lump sum payments from the Social Security Administration (SSA) or Supplemental Security Income (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 the amount of retroactive tenant rent that the family owes as a result of the lump sum receipt:

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

#### Contributions to Retirement Funds – Assets:

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

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

## **6-I.Ad. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**

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

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

The Authority'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 Authority will not verify the assets or count the income from such assets.

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

## Chapter 7

### VERIFICATION PROCEDURES

[24 CFR Part 5, 24 CFR 982.516]

#### Overview

HUD regulations require that the factors of eligibility and Total Tenant Payment be verified by the Authority. Authority 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. Authority staff will obtain written verification from independent sources and will document tenant files of third-party verification efforts and methods and when verification is not possible, as to why third-party verification was not obtainable.

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

## CHAPTER 7

### VERIFICATIONS

#### 7-I.A. METHODS OF VERIFICATION AND TIME ALLOWED [24 CFR 982.516]

##### HUD's Verification Hierarchy:

Housing Authorities should begin with the highest level of verification techniques.

All verifications, regardless of technique, require the Authority to review the Income Validation Tool (IVT) information at the time of recertification and for multiple subsidy payments. The Authority is required to review the Enterprise Income Verification (EIV) Former Tenant and Existing Tenant Reports for any SSA matches involving another Authority, or multi-family entity and follow-up on any issues identified.

The Authority is required to maintain the Income Report in the tenant file along with the form HUD-50058 and other documentation to support the income and calculations used to determine a family rent portion for all mandatory annual recertifications of family income and composition.

If the Income Report does not contain any employment and income information for the family, the Authority should attempt the next lower level verification technique, as noted in the below chart.

The Authority will also need to obtain an Income Report for each household and maintain the Income Report in the tenant file along with Form 50058.

#### 7-I. B METHODS OF VERIFICATION

Level	Verification Technique	Ranking
6	<b>Upfront Income Verification (UIV)</b> using HUD's Enterprise Income Verification (EIV) system (not available for income verifications of applicants)	<b>Highest (Mandatory)</b>
5	<b>Upfront Income Verification (UIV)</b> using non-HUD system	<b>Highest (Optional)</b>

<b>4</b>	<b>Written third Party Verification</b>	<b>High:</b> Mandatory to supplement EIV-reported income sources and when EIV has no data; Mandatory for non-EIV reported income sources; Mandatory when tenant disputes EIV reported employment and income information <b>and</b> is unable to provide acceptable documentation to support dispute)
<b>3</b>	<b>Written Third Party Verification Form</b>	<b>Medium-Low:</b> (Mandatory if written third party verification documents are not available or rejected by the Authority; and when the applicant or tenant is unable to provide acceptable documentation).
<b>2</b>	<b>Oral Third-Party Verification</b>	<b>Low:</b> Mandatory if written third party verification is not available.
<b>1</b>	<b>Tenant Declaration</b>	<b>Low:</b> Use as a last resort when unable to obtain any type of third-party verification.

**Note:** This verification hierarchy applies to income determinations for applicants and participants. EIV is not available for verifying initial income of applicants.

**7.I.C. Enterprise Income Verification (EIV) [24 CFR 50233(a)(2)]**

The Authority utilizes HUD’s Enterprise Income Verification (EIV) system as an on- line source for income verification before or during a recertification, through an independent source that systematically and uniformly maintains income information in a computerized format for a large number of individuals. This system enables the Authority to check a variety of income sources for all family members, regardless of income sources reported by applicants and participants.

The Authority staff may not disclose EIV data to any third parties (EIV data is property of HUD and protected by the Federal Privacy Act). Staff may only provide EIV data to the individual to whom the record pertains. EIV data of minors may be provided to the minor's parent or guardian.

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

HUD also allows the Authority to use tenant-provided documents (pay stubs) to project income and use EIV as a resource to do a comparison of the information provided by the family.

It is the policy of the Authority that when EIV is obtained and the family does not dispute the EIV information of employer data, the Authority will use current tenant-provided documents to project annual income.

When the tenant- provided documents are pay stubs, the Authority will make every effort to obtain a minimum of two (2) current and consecutive pay stubs.

Documents older than 60 days from the Authority's interview/determination or request date are acceptable for confirming dates of income.

The Authority will obtain written and/or oral third-party verification in accordance with the verification requirements and policy in this chapter in the following cases:

- If EIV or other UIV data is not available;
- If the family disputes the accuracy of the EIV employer data; and/or
- If the PHA determines additional information is needed.

In such cases, the Authority will review and analyze current data to anticipate annual income.

In all cases, the family file will be documented with a clear record documenting the verifications received, requested, and used for purpose of determining the family rent portion, leaving a clear audit trail as to how the Authority

annualized projected income.

When the Authority cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), the PHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

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

### **7-I.C. THIRD-PARTY VERIFICATION TECHNIQUES**

#### Upfront Income Verification (UIV) (Level 6/5):

The verification of income before or during a family recertification through an independent source that systematically and uniformly maintains income information in computerized form for a number of individuals. The EIV system is available to all Housing Authority's as a UIV technique. Housing Authorities are encouraged to continue using other non-HUD UIV tools, such as The Work Number (an automated verification system) and state government databases, to validate tenant-reported income.

#### Written Third Party Verification (Level 4):

An original or authentic document generated by a third-party source dated either within the sixty (60) day period preceding the reexamination or Authority request date. Such documentation may be in the possession of the tenant (or applicant) and is commonly referred to as tenant-provided documents.

Examples of acceptable tenant-provided documentation (generated by a third-party source) include, but are not limited to:

- a. Paystubs or payroll summary report
- b. Employer notice/letter of hire/termination
- c. SSA benefit verification letter
- d. Bank statements
- e. Child support payment stubs
- f. Welfare benefit letters and/or printouts
- g. Unemployment monetary benefit notices
- h. Pharmacy printouts

The Authority is required to obtain at a minimum, two (2) current and consecutive pay stubs for determining income from wages. The Authority will continue to request six (6) current and cumulative paycheck stubs during a regularly scheduled recertification. For new income sources or when two (2) pay stubs are not available, the Authority should project income based on the information from a traditional written third-party verification form or the best available information.

The Authority may, at its discretion, reject any tenant-provided documents and follow up directly with the source to obtain necessary verification of information.

If SSA/SSI benefit information cannot be obtained through EIV and the participant and/or household member are unable to provide the requested document(s), the Authority will request that the participant/household member utilize the following option:

- The Authority may request the applicant/participant, during the interview, by phone, email or U.S. mail to access their benefit information on the SSA website ([www.socialsecurity.gov](http://www.socialsecurity.gov)) to request an award letter;
- The Authority may offer to help the applicant/participant with the online process as a reasonable accommodation for a person with a disability or for an elderly person.
- Assist the applicant in answering questions and explain how the applicant should provide the letter once they receive it. Upon receipt, the applicant/household member should provide the Authority with the original SSA benefit letter. The Authority should make a photocopy of the document for the Authority file and return the original document to the individual. The Authority should use the listed gross benefit amount to calculate annual income from social security benefits. The SSA will charge the Authority a fee for third party verifications of social security benefits. Therefore, to avoid incurring third party verification costs, the Authority will use the method noted above to obtain verification for each household member that receives social security benefits

#### Written Third Party Verification Form (Level 3):

Traditional written third-party verification is used to verify information directly from the source. Third party written verification forms will be sent directly to the third-party source by mail, electronic mail or fax. The form is completed by the third party by hand (in writing or typeset). The family will be required

to sign an authorization for the information source to release the specified information.

### Oral Third-Party Verification (Level 2):

Oral third-party verification will be used when written third party verification is not possible, or in the event that the independent source does not respond to Authority request in a reasonable time frame, (i.e. ten (10) days). The Authority will make a 2<sup>nd</sup> attempt to request before the next method of verification is used. When this method is used, the Authority will be required to document the Method of Verification (MOV) form in the file, the name of the person contacted and telephone number, the date and time of the conversation, and the facts provided. If no reply, the MOV must be documented with the Authority's attempts to obtain the information. The following time line should be followed:

1<sup>st</sup> attempt to obtain oral: when the written third-party verification failed, the Authority will need to call the unresponsive party and document information obtained on the "MOV" form.

2<sup>nd</sup> attempt: If oral third party is not available, the Authority will document the attempts and move on to the next method of verification, "non-third-party verification". The Authority will accept faxed documents and will accept photo copies provided the information is confirmed over the phone.

### Non-Third-Party Verification Technique:

Tenant Declaration (Level 1: The tenant submits an affidavit, Self-certification in writing of a statement of reported income and/or expenses to the Authority. This verification method should be used as a last resort when the Authority has not been successful in obtaining information via all other verification techniques. When the Authority relies on the tenant declaration, the Authority must document the tenant file as to why third-party verification was not obtainable.

### Third Party Verification Requirements:

In accordance with 24 CFR 960.259(c)(1) and 24 CFR 982.516(a)(2), the Authority must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third-party verification was not obtainable:

- reported family annual income;
- the value of assets;
- expenses related to deductions from annual income; and
- other factors that affect the determination of adjusted income.

### Exceptions to Third Party Verification Requirements:

HUD is aware that in some situations, third party verification is not available for a variety of reasons. In these cases, the Authority is required to document the reason(s) why third-party verification was not obtainable.

The Authority must request written third-party verification under the following circumstances:

1. When the tenant disputes the EIV information and is unable to provide acceptable documentation support his/her dispute (24 CFR 5.236(b));
2. When the Authority requires additional information that is not available in EIV and/or the tenant is unable to provide the Authority with current acceptable tenant-provided documentation.

Examples of additional information, includes but is not limited to:

- Effective dates of income (i.e. employment, unemployment compensation, or social security benefits);
- For new employment: pay rate, number of hours worked per week, pay frequency, etc.;
- Confirmation of change in circumstances (i.e. reduced hours, reduced rate of pay, temporary leave of absence, etc.).

If the EIV report reveals an income source that was not reported by the tenant or a substantial discrepancy in the reported income information, the Authority is required to take the following actions:

- Discuss the income discrepancy with the tenant; and
- Request the tenant to provide any documentation to confirm or dispute the unreported or underreported income and/or income sources;
- The Authority will request from the third-party source, any information necessary to resolve the income discrepancy;
- If applicable, determine the tenant's underpayment of rent as a result of unreported or underreported income, retroactively; and

- Take any other appropriate action as directed by HUD or the Authority's administrative policies.

The Authority is required to determine the retroactive rent as far back as the existence of complete file documentation (form HUD-50058 and supporting documentation) to support such retroactive rent determinations.

**Note:** A substantial difference is defined as an amount equal to or greater than \$2,400 annually. The tenant must be provided an opportunity to contest the Authority determination of tenant rent underpayment.

**7-I.D. VERIFYING FAMILY INFORMATION**

The Authority will require families to furnish verification of legal identity for each household member.

Verification of Legal Identity for Adults	Verification of Legal Identity for Children
Certificate of birth, naturalization papers Church issued baptismal certificate Current, valid driver's license or Department of Motor Vehicle identification card U.S. military discharge (DD 214) Current U.S. passport Current employer identification card	Certificate of birth Adoption papers Custody agreement Health and Human Services ID Certified school records

If a document submitted by a family is illegible or otherwise questionable, more than one of the documents listed above may be required.

**7-I.E. DISCLOSURE OF SOCIAL SECURITY NUMBERS [24 CFR 5.216]**

Families are required to provide verification of valid Social Security Numbers (SSN) for all members of the household prior to admission, with the exception of individuals who do not contend eligible immigration status. Exemptions also include, existing program participants who were at least 62 years of age as of January 31, 2010, and had not previously disclosed an SSN.

Legal identity will be verified for all applicants at the time of eligibility determination and in cases where the Authority has reason to doubt the identity of a person representing him or herself to be a tenant or a member

of a tenant family.

During initial eligibility, if the Authority determines that the applicant is otherwise eligible (yet unable to provide valid SSN) to participate in a program, the applicant may retain its place on the waiting list for the program but cannot become a participant until it can provide the following documentation to verify the SSN of each member of the household.

- A valid SSN card issued by the SSA;
- An original document issued by a federal or state government agency, which contains the name of the individual and the SSN of the individual, along with other identifying information of the individual;
- Such other evidence of the SSN as HUD may prescribe in administrative instructions.

The Authority may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

The Authority will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to the Authority within 90 days.

An individual who previously declared to have eligible immigration status may not change his or her declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

If an applicant family includes a child under the age of 6 years who was added to the applicant household within the 6-month period prior to the date of voucher issuance, an otherwise eligible applicant family may be admitted to the program as a participant, so long as the documentation of the child's SSN is provided to the Authority within 90 calendar days from the date of the initial HAP contract. One additional 90-day extension may be granted if the Authority determines that, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside

the participant's control.

This requirement also applies to participant's requesting to add a new household member who is at least 6 years of age, or who is under the age of 6 and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of the recertification, in addition to the documentation required to verify it. The Authority may not add the new household member(s) until such documentation is provided. A 90-day extension may be granted if the Authority determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period the Authority is awaiting documentation of the SSN, the child will be counted as part of the household.

Social security numbers must be verified only once during continuously assisted occupancy.

The Authority will verify each disclosed SSN by:

- Obtaining documentation from applicants and participants that is acceptable evidence of social security numbers;
- Making a copy of the original documentation submitted;
- Returning it to the individual; and
- Retaining a copy in the participant file.

Once the individual's verification status is classified as "verified," the Authority may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security documentation of an individual's SSN.

#### **7-I.F. RELEASE OF INFORMATION [24 CFR 5.230]**

Each family member age 18 years and older and each family head and spouse, regardless of age will be required to sign the HUD 9886 Release of Information/Privacy Act Form. In addition, family members will be required to sign specific authorization forms when information is needed that is not covered by the HUD 9886, Release of Information/Privacy Act Notice.

Each member requested to consent to the release of specific information will be provided with a copy of the appropriate forms for their review and signature.

The head of household is also required to sign the HUD-FORM 92006 Supplement to Application for Federally Assisted Housing Form.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance as these

requirements are regulatory and made part of the Family Obligations.

The Authority must deny admission to the program for an applicant, or terminate program assistance for a participant, if any member of the family fails to sign and submit consent forms for obtaining information in accordance with part 5, subparts B and F of this title.

### **7-I.G. COMPUTER MATCHING [ 24 CFR 5.2341**

Income information will generally be obtained through computer matching agreements between HUD and available using EIV, a Federal agency, or between a PHA and a State Wage Information Collection Agency (SWICA) allows certain agencies to utilize quarterly wage reports from employers in the State, or by means of an alternative system that has been determined to be effective and timely in providing employment related income and eligibility information. Certification that the applicable assistance applicants and participants have signed appropriate consent forms and have received the necessary Privacy Act notice is required as follows:

- (1) When HUD requests the computer match, the processing entity shall certify to HUD; and
- (2) When the Authority requests the computer match, the Authority shall certify to SWICA.

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

The Authority will utilize the HUD established computer-based Enterprise Income Verification (EIV) System for but not limited to review of income and obtaining Social Security Benefits, Supplemental Security Income, benefit history. SSN matching, new hires, deceased tenants, debts owed and tenant income discrepancy reports.

When computer matching results in a discrepancy with information in the Authority records, the Authority will follow up with the family and other verification sources to resolve this discrepancy. If the family has unreported or underreported income, the Authority will follow the procedures in this Administrative Plan.

### **7-I.H. ITEMS TO BE VERIFIED [24 CFR 982.516]**

Items to be verified at initial eligibility and annual recertifications include but are not limited to:

- All income;
- Zero income status of household. Zero income applicants and

residents may be required to self-certify and complete a Household Expenditure form at quarterly (every 90 days) to determine how the participant is affording daily living expenses;

- 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 the preceding two years;
- Child care expense where it allows an adult family member to be employed, is actively seeking employment or to further their education;
- Total medical expenses of all family members in household 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 allows an adult family member to be employed;
- U.S. citizenship/eligible immigrant status;
- Social Security numbers for all family members over 6 years of age or older who have been issued a social security number;
- "Preference" status based upon Authority preferences. (for applicants and initial eligibility only);
- Familial or marital status when needed for head or spouse definition;
- Disability for determination of preferences, allowances or deductions (preference verification only required at initial eligibility);
- Verification of Reduction in Benefits for Noncompliance. The Authority will obtain written verification from the welfare agency to determine why the amount is reduced, and document that family's benefits have been reduced for fraud or noncompliance. The Authority is required to include the whole benefit amount as if in compliance;
- Legal Identity;
- Family Composition.

### **7-I.I. VERIFICATION OF INCOME [24 CFR 982.516]**

This section defines the methods the Authority will use to verify various types of income. Acceptable methods of verification include, in this order:

Employment Income: Employment verification forms may request from employer to specify the following;

- Dates of employment;
- Amount and frequency of pay (If paid twice a month, or bi-monthly, for example, on the 15<sup>th</sup> and the 30<sup>th</sup>, frequency of pay is 24 times per year, pay every two weeks or bi-weekly, frequency of pay is 26 times per year, pay at once a month is monthly, etc.);
- 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;
- Check stubs or earning statements which indicate the employer's gross pay, frequency of pay or year to date earnings.

The Authority may request the family's most recently submitted IRS federal and state income tax returns.

Self-certifications: When documentation does not exist or attempts to verify written third party are unsuccessful; participants or applicants may self-certify for verifying self-employment income or income from tips and other gratuities. (For some self-employment types, where there is the potential for substantial income, self-certification may be unacceptable.)

Social Security, Pensions, Supplemental Security Income (SSI), Disability Income: Acceptable method of verification may include, in this order:

- Enterprise Income Verification (EIV) System printout;
- Benefit verification form completed by agency providing the benefits;
- Award or benefit notification letters prepared and signed by the providing agency;
- Computer report electronically obtained or in hard copy;
- Bank statement for direct;
- Social Security Benefit verification letters must be current and dated within 60 days of working up the file. Applicants/household members can obtain current benefit verification letters online at

[www.socialsecurity.gov](http://www.socialsecurity.gov) or contact by phone by calling the SSA at 1-800-772-1213.

Unemployment Compensation: Acceptable methods of verification may include, in this order:

- Payment stubs;
- Verification form completed by the Employment Development Department (EDD);
- Computer printout from online participant/applicants online account electronically obtained or in hard copy, from unemployment office stating payment dates and amount;
- Weekly benefit amount stated on award letter.

Welfare (TANF) Payments or General Assistance: Acceptable methods of verification may include, in this order:

- Authority verification form completed by payment provider;
- Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months;
- Computer-generated Passport to Services printout and/or Notice of Action.

Alimony or Child Support Payments: Acceptable methods of verification may include, in this order:

- Authority verification form completed by payment provider;
- Printout of recent payment history from the issuing agency;
- Oral verification from the District Attorney's Child Support Division;
- Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedule;
- Family's self-certification of amount received and the likelihood of support payments being received in the future, or that support payments are not being received.

If payments are irregular, the family must provide:

- Authority verification form completed by parent provider or person

paying the support;

- Welfare notices of action showing amounts received by the welfare agency for child support;
- A written statement from an attorney certifying that a collection or enforcement action has been filed;
- An affidavit from the family indicating the amount(s) received
- A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.

Net Income from a Business: In order to verify the net income from a business, the Authority will view IRS and financial documents from prior years and use this information to anticipate the income for the next twelve (12) months.

Acceptable methods of verification include:

- IRS Form 1040;
- Schedule C (Small Business);
- Schedule E (Rental Property Income);
- Schedule F (Farm Income);
- Audited or un-audited financial statement(s) (profit and loss) of the business;
- Documents such as manifests, appointment books, cash books, 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 twelve (12) months. The family will be advised to maintain these documents in the future if they are not available;
- Family's self-certification as to net income realized from the business during previous years;
- 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 Authority may conduct

interim reevaluations every 120 days and provide the log information about customers, income and expenses.

If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expenses will be computed using straight-line depreciation rules.

Child Care Business: If an applicant/participant is operating a licensed day care business, income will be verified using the standard verification methods outlined in this chapter. (or as self-employed).

If the applicant/participant is operating a "cash and carry" operation the Authority may require that the applicant/participant complete a form for each customer which indicates: name of person, name of children who are being cared for, phone number, number of hours the children are being cared for, method of payment (check/cash), amount paid, and signature of person.

If the family has filed a tax return, the Authority will request the family to provide a copy of the most recent filed return.

The Authority may conduct interim reevaluations every ninety (90) days and require the participant to provide a log with the information that reflects clients, number of children, and amounts paid for each.

If child care services were terminated, a third-party verification form may be sent to the parent whose child was cared for.

Recurring Gifts: When a family receives a recurring gift, the Authority will verify the income by mailing verification directly to the providing source. If unsuccessful, the Authority may request the family to complete a self-certification form.

When a family submits a self-certification, the following information must be included:

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

The Authority will follow the third-party verification procedures as outlined in this chapter.

Zero Income Status: The Authority will employ the use of the UIV/EIV for annual and interim recertifications (EIV not available and initial eligibility determination) The Authority will process an EIV report for all new admissions within 120 days of being admitted to the program When the family certifies zero income the Authority may conduct other written third-party verification to confirm.

Families claiming to have zero income will be required to sign and self-certify that no income is being received from any source (Temporary Assistance for Needy Families (TANF), SSI, unemployment, etc.)) by any member of the household.

To prevent fraud of unreported income, the Authority may, while investigating fraud, run a credit report or request other types of reports, records from agencies, if information is received that indicates the family has an unreported income source.

Minimum Income: There is no minimum income requirement. Families who report zero (\$0) income may be required to undergo an interim recertification every ninety (90) days. Families that report zero (\$0) income will be required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc., by completing a Household Expenditure Form.

If the family's expenses exceed their known income, the Authority will make inquiry of the head of household as to the nature of the family's accessible resources.

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. Social Security, and unemployment income is not considered as earned income and the full amount will be counted.

For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), 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

Housing Authorities must include amounts of financial assistance an individual receives in excess of tuition and other required fees and charges when determining annual income in accordance with 24 CFR 5.609(b)(9).

Verification of full-time student status includes:

- 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;
- Oral third-party must be documented in the applicant/participant file;
- If verification cannot be received directly from the educational institution to the Authority the file must be documented with the reason.

### **7-I.J. INCOME FROM ASSETS** [24 CFR 982.516]

Checking/Savings Account Interest Income and Dividends: Where the family has net family assets in excess of \$5,000, Authority must obtain supporting documentation (e.g. bank statements) from the family to confirm the assets.

Acceptable methods of verification include, in this order:

- Account statements, passbooks, certificates of deposit, or Authority verification forms completed by the financial institution;
- Broker's statements 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 Authority must adjust the information to project earnings expected for the next twelve (12) months.

The Authority 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: Acceptable methods of verification include, in this order:

- A letter from an accountant, attorney, real estate broker, the buyer, or a financial institution stating interest due for next twelve (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 twelve (12) months following the effective date of the certification or recertification.

Net Rental Income from Property Owned by Family: Acceptable methods of verification include, in this order:

- 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 statements 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 Disposed of for Less than Fair Market Value (FMV) During Two Years Preceding Effective Date of Certification or Recertification:

For all certifications and recertification, the Authority 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 is required that shows:

- All assets disposed of for less than FMV;
- The date they were disposed of;
- The amount the family received; and
- The market value of the assets at the time of disposition. Third party verification will be obtained wherever possible.

### **7-I.K. VERIFICATION OF ASSETS**

Family Assets: The Authority will require the information necessary to determine the current cash value of the family's assets (the net amount the family would receive if the asset were converted to cash). Acceptable verifications may include any of the following:

- Authority verification forms, letters, or documents completed by a financial institution or broker.

- Passbooks, checking/savings account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker;
- Quotes from a stock broker or realty agent as to net amount family would receive if they liquidated securities or real estate;
- Real estate tax statements if the approximate current market value can be deducted from assessment;
- Financial statements for business assets;
- Copies of closing documents showing the selling price and the distribution of the sales proceeds;
- Appraisals of personal property held as an investment;
- Family's self-certification describing assets or cash held at the family's home or in safe deposit boxes.

### **7-I.L. VERIFICATION OF ALLOWABLE DEDUCTIONS FROM INCOME**

Child Care Expenses the Authority 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.

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

Verifications must specify the child care provider's name, address, telephone number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical amount paid (weekly, monthly, or annually), providing care for the participants child(ren).

The Authority must inquire whether the family is receiving payments (or has received) or will be paid or reimbursed by outside sources.

Medical Expenses and Disability Assistance Expenses: For a family to qualify for medical expenses, the head or spouse must be disabled.

If the head or spouse is disabled, a medical allowance for out of pocket medical expenses for the disabled family member in the household will be included to determine the allowance.

Families who claim medical expenses will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source.

All expense claims will be verified by one or more of the methods listed below:

- 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 those expenses will be reimbursed by insurance or a government agency;
- Written confirmation from the Social Security Administration of Medicare premiums to be paid by the family over the next twelve (12) months. A computer printout will be accepted;
- 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 month;
- Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses. The Authority 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 Authority 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.

Attendant Care Expenses: 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.

The following items will be accepted:

- 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;
- Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next twelve (12) months;

- Copies of pay
- ment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next twelve (12) months;
- Receipts or other records of medical expenses incurred during the past twelve (12) months that can be used to anticipate future medical expenses. The Authority may use this approach for “general medical expenses” such as non-prescription drugs and regular visits to doctors or dentists, but not for a one-time nonrecurring expense.

The Authority may verify if any of the above costs are being reimbursed by another provider.

**7-I.M. ASSISTANCE TO PERSONS WITH DISABILITIES [24 CFR 5.611]**

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 them to be employed or to function sufficiently and independently or 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;
- In cases where an extra bedroom has been granted, the Authority may confirm the bedroom is being used for the equipment at annual inspection

Medicare Drug Prescription Program (Part D): Medicare prescription drug coverage is insurance that covers both brand-name and generic prescription drugs at participating pharmacies. Medicare prescription drug coverage provides protection for people who have very high drug costs.

Everyone with Medicare, regardless of income, health status, or prescription drug usage, will have access to prescription drug coverage beginning on January 1, 2006, as follows:

- Low income families with limited assets will qualify, but family must enroll in a plan that meets their prescription drug needs;
- Persons receiving SSI will automatically qualify;
- A one-time \$600 subsidy (transitional assistance) will be provided to eligible Medicare beneficiaries. This subsidy must be excluded as income. The family may provide this verification (if not, the Authority will need to do a third-party verification);
- Un-reimbursed out-of-pocket expenses for prescription drugs must be counted in the family's medical expense deduction;
- Some persons may be required to pay a monthly premium up to \$37 which will be counted as a medical deduction. The family may pay the premium directly or it may be deducted directly from their SSI check;
- Families are not required to report they have enrolled until their next recertification through February, 2007.

#### **7-I.N. VERIFYING NON-FINANCIAL FACTORS**

Verification of Legal Identity: In order to prevent program abuse, the Authority will require applicants to furnish verification of legal identity for all family members.

One or more of the documents listed below will be considered as 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. (the Authority has the discretion to determine what is needed for verification:

- Current, valid Driver's license or Department of Motor Vehicles Identification Card or REAL ID;

- Certificate of birth, naturalization papers, adoption papers;
- Legal Alien Card;
- Church issued baptismal certificate;
- Current valid driver's license;
- U.S. military discharge (DD 214);
- U.S. Passport;
- Voter's registration card;
- Company/agency identification card;
- Court records (marriage, divorce, bankruptcy etc.);
- Hospital records.

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 (identification card);
- School records;
- Church baptismal records.

Verification of Lifetime Sex Offender Registration: For any admissions after June 25, 2001 (the effective date of the Screening and Eviction for Drug Abuse and other Criminal Activity final rule), if the recertification or request to add member to a household screening reveals that the applicant or participant or member of the household is subject to a lifetime sex offender registration requirement, or that the tenant has falsified information or otherwise failed to disclose his or her criminal history on their application and/or recertification personal declaration the Authority will propose termination of rental assistance.

The Authority will use the following process at initial eligibility and at each recertification determination:

- Confirm the question is answered in the Personal Declaration that asks households whether any member is subject to a lifetime registration requirement under a state sex offender registration program.

Using the Dru Sjodin National Sex Offender website at [www.nsopw.gov](http://www.nsopw.gov) at initial eligibility and recertification to confirm that applicants and federal housing assistance recipients are not lifetime registered sex offenders.

The Authority will aggressively pursue termination of rental assistance, or deny initial eligibility, as appropriate, for tenants subject to a state lifetime sex offender registration requirement to the extent currently allowed by law.

Verification of marital status must be verified to determine marital status and relationships. Verification of a separation may be a copy of court-ordered documentation or other records. Verification of divorce status will be a certified copy of the divorce decree, signed by a court officer.

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: Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification. The following verifications will always be required if applicable:

Verification of Relationship:

- Official identification showing names
- Birth certificates
- Baptismal certificates

Verification of Guardianship:

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

- Affidavit of parent

Evidence of an Established Family Relationship:

- Joint bank accounts or other shared financial transactions
- Leases or other evidence of prior cohabitation
- Credit reports showing relationship
- Verification from social services agency and/or school records
- 

Verification of Permanent Absence of Family Member: If an adult member who was formerly a member of the household is reported permanently absent by the family, the Authority will consider any of the following as verification:

- Husband or wife institutes divorce or legal separation. Appropriate documentation from the court is required;
- Order of protection/restraining order obtained by one family member against another;
- Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available;
- 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;
- If no other proof can be provided, the Authority will accept a self-certification from the family;
- 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;
- If no other proof can be provided, the Authority 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 Authority may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, neighbors, credit data, school or Department of Motor Vehicles (DMV) records, law enforcement agencies and other sources.

When the family notifies the Authority 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 Authority 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 Supplemental Security Income (SSI) or Social Security Administration (SSA) disability payments under Section 221 of the Social Security Act or 102(8) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(8) 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 Authority 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 except as verified for a person with a disability as a reasonable accommodation and must meet HUD definition of a live-in aide.

The Authority is not required to approve the person to be added as the live-in aide (this does not deny the request to add a live-in aide, only to deny the person requested) any of the following applies:

- 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;
- The live-in aide owes any amounts of money to any federal housing;
- The live-in aide has drug related criminal activity, violent criminal Authority 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;
- The live-in aide has employment outside of the home;

- Another person is residing in the unit who is capable of providing the care for participant;
- Participant requiring live in aide must supply the Authority 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 Authority 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;
- The Authority will not increase the voucher size for a live-in aide more than one (1) bedroom size. If adding the live-in aide will cause overcrowding due to family members of the aide, the Authority may deny the addition of a particular person as the live-in aide and participant would need to make a new request for an alternate aid.;
- 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 Authority must be the same person on record with IHSS. The family will be required to submit verification at every annual recertification or sooner if needed;

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.

Need for Larger Unit: For a person with disabilities, as a reasonable accommodation, when a participant requests a need for a larger unit, verification 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, the medical need will be verified annually at the recertification as part of the reasonable accommodation.

## **7-I.O. VERIFICATION OF WAITING LIST PREFERENCES [24 CFR 982.207]**

Local Preferences as determined by the Authority:

Involuntarily Displaced: Families who claim they are being or have been displaced due to either a disaster or government action:

- Family to provide written verification by the displacing agency, or by a service agency such as the Red Cross.

Displacement by HUD disposition of a project:

- Written verification from HUD.

Determination of Standard Replacement Housing:

- Inspection by an Authority inspector and/or certification by landlord.

Displacement by emergency relocation, extensive rehabilitation, insufficient funding or other local disaster.

- Families who were receiving Housing Choice Voucher assistance will take precedence over other waiting list place holders. New applicants to the Housing Choice Voucher program must be a family displaced by a natural disaster, including disasters recognized by the Federal government, which extensively damaged or destroyed their dwelling.

Veteran Preference:

- The Authority will require Form DD214 or other veteran verification form, which indicate that the applicant is a veteran with honorable discharge or active military under the following definition: is a current member of the US Military Armed Forces or a veteran 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 or marital status to the veteran. If the veteran is deceased, the spouse cannot have remarried.

Residency Preference:

- Verification that person currently lives, works has been hired to work, or attends a job training program within the Authority's area of jurisdiction.
- In order to verify that an applicant is a resident, the Authority may require a minimum of three (3) of the following documents:

- rent receipts;
- leases, utility bills;
- employer or agency records;
- school records, driver's license or REAL ID, voter's registration records;
- or credit reports.

For families that have been hired to work in jurisdiction of the Authority, a statement from the employer will be required.

Elderly or Disabled Elderly Preference: Verification of age and birthdate may be verified with a certified Certificate of Birth where no government or official identification card is available.

Social Security or Supplemental Security benefits may be used as a method in determining age, retirement or disability benefits received.

If a person claims they have a permanent disability and do not receive disability benefits from the Social Security Administration, verification of disability may be completed by the Authority using a third-party written verification of disability form.

The Authority will not inquire as to the nature of a disability required to v appropriate documentation from a knowledgeable professional.

## **7-I.P. (HUD) PRIVACY PROTECTION GUIDANCE FOR THIRD PARTIES**

### Purpose:

All public housing agencies (PHAs) have the responsibility of safeguarding personally identifiable information (PII) required by HUD and preventing potential breaches of this sensitive data. HUD is committed to protecting the privacy of individuals' information stored electronically or in paper form, in accordance with federal privacy laws, guidance, and best practices. HUD expects its third-party business partners, including Public Housing Authorities, who collect, use, maintain, or disseminate HUD information to protect the privacy of that information in accordance with applicable law.

General HUD program requirements are set forth in 24 C.F.R. Part 5, Subpart B, Disclosure and Verification of Social Security Numbers and Employer

Identification Numbers: Procedures for Obtaining Income Information. Subpart B enables HUD and PHAs to obtain income information about applicants and participants in the covered programs through computer matches with State Wage Information Collection Agencies (SWICAs) and Federal agencies, in order to verify an applicant's or participant's eligibility for or level of assistance.

- Restrictions on Use of Income Information Obtained from SWICA and Federal Agencies. The restrictions of 42 U.S.C. 3544(c)(2)(A) apply to the use by HUD or a PHA of income information obtained from a SWICA and the restrictions of 42 U.S.C. 3544(c)(2)(A) and of 26 U.S.C. 6103(l)(7)(C) apply to the use by HUD or a PHA of income information obtained from the Internal Revenue Service or the Social Security Administration.

The Privacy Act and other requirements for grants and contracts is spelled out in 24 C.F.R. 5.212 which states:

- Compliance with the Privacy Act. The collection, maintenance, use, and dissemination of SSNs, EINs, any information derived from SSNs and Employer Identification Numbers (EINs), and income information under this subpart shall be conducted, to the extent applicable, in compliance with the Privacy Act (5 U.S.C. 552a) and all other provisions of Federal, State, and local law.
- Privacy Act Notice. All assistance applicants shall be provided with a Privacy Act notice at the time of application. All participants shall be provided with a Privacy Act notice at each annual income recertification.
- The Federal Acquisition Regulation (FAR), 48 C.F.R. 24.104, sets forth that compliance with the requirements of the Privacy Act be included in HUD contracts at clause 52.224-2, which provides in part:

The Contractor agrees to:

- Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act.

Definitions: As used in this Notice, the following terms are defined as:

**Personally, Identifiable Information (PII):** Defined in OMB M-07-16 as information which can be used to distinguish or trace an individual's identity, such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked

or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.

**Sensitive Personally Identifiable Information (SPII):** Sensitive Personally Identifiable Information that when lost, compromised or disclosed without authorization could substantially harm an individual. Examples of sensitive PII include social security or driver's license numbers, medical records, and financial account numbers such as credit or debit card numbers.

**Guidance on Protecting Sensitive Privacy Information:** The Privacy Act requires that federal agencies maintain only such information about individuals that is relevant and necessary to accomplish its purpose. The Privacy Act also requires that the information be maintained in systems or records – electronic and paper – that have the appropriate administrative, technical, and physical safeguards to protect the information, however current. This responsibility extends to contractors and third-party business partners, such as Public Housing Authorities, who are required to maintain such systems of records by HUD.

Contractors and third-party business partners should take the following steps to help ensure compliance with federal requirements:

- **Security Awareness and Privacy Training:**
  - The National Institute of Standards and Technology (NIST) publishes templates and guides for what security awareness trainings should entail in order to be FISMA compliant. These guidelines focus on the following key aspects:
- **Confidentiality:** Protecting information from unauthorized access and disclosure.
- **Integrity:** Assuring the reliability and accuracy of information and IT resources by guarding against unauthorized information modification or destruction.
- **Availability:** Defending information systems and resources to ensure timely and reliable access and use of information. As such, systems are vulnerable to misuse, interruptions and manipulation;
- **Threat:** A threat in the case of IT security is the potential to cause unauthorized disclosure, unavailability, changes, or destruction of protected information;

- Vulnerability: Any flaw or weakness that can be exploited and could result in a breach or a violation of a system's security policy;
- Risk: is the likelihood that a threat will exploit vulnerability;
- Controls: Policies, procedures, and practices designed to decrease the likelihood, manage the impact, or minimize the effect of a threat exploiting a vulnerability.

Additionally, the NIST provides publications for reference on Building an Information Technology Security Awareness and Training Program and Security and Privacy Controls for Federal Information Systems and Organizations.

PHA's should maintain adequate documentation that supports the training for all staff as well as maintain auditable records of training completion. Although there is not required reporting on the training, Office of Field Operations personnel may spot-check compliance on on-site visits.

Limit Collection of PII:

1. Do not collect or maintain sensitive PII without proper authorization;
2. Collect only the PII that is needed for the purposes for which it is collected.;
3. Consistent with the provisions of this Notice, PHAs may enter into agreements (or in some cases be required) to provide PII to legitimate researchers under contract or other agreement with HUD to support studies on the effects and operations of HUD programs. Further, HUD encourages PHAs to supply PII to other legitimate researchers who do not have contracts or other agreements with HUD in support of such studies, so long as the PHA in question has taken reasonable precautions to prevent disclosure of PII outside of the research team. Such reasonable precautions generally involve written agreements between the PHA and one or more researchers that specify the legal obligations of the latter to protect PII from disclosure.

## Manage Access to Sensitive PII

1. Only share or discuss sensitive PII with those personnel who have a need to know for purposes of their work. Challenge anyone who asks for access to sensitive PII for which you are responsible.;
2. Do not distribute or release sensitive PII to other employees, contractors, or other third parties unless you are first convinced that the release is authorized, proper and necessary.;
3. When discussing sensitive PII on the telephone, confirm that you are speaking to the right person before discussing the information and inform him/her that the discussion will include sensitive PII;
4. Never leave messages containing sensitive PII on voicemail;
5. Avoid discussing sensitive PII if there are unauthorized personnel, contractors, or guests in the adjacent cubicles, rooms, or hallways who may overhear your conversations;
6. Hold meetings in a secure space (i.e., no unauthorized access or eavesdropping possible) if sensitive PII will be discussed and ensure that the room is secured after the meeting;
7. Treat notes and minutes from such meetings as confidential unless you can verify that they do not contain sensitive PII;
8. Record the date, time, place, subject, chairperson, and attendees at any meeting involving sensitive PII.

## Protect Hard Copy and Electronic Files Containing Sensitive PII:

1. Clearly label all files containing sensitive PII by placing appropriate physical labels on all documents, removable media such as thumb drives, information systems, and application. Examples of appropriate labels might include —For Official Use Only or —For (Name of Individual/Program Office) Use Only;
2. Lock up all hard copy files containing sensitive PII in secured file cabinets and do not leave unattended;
3. Protect all media (e.g., thumb drives, CDs, etc.,) that contain sensitive PII and do not leave unattended. This information should

be maintained either in secured file cabinets or in computers that have been secured;

4. Keep accurate records of where PII is stored, used, and maintained;

Periodically audit all sensitive PII holdings to make sure that all such information can be readily located;

5. Secure digital copies of files containing sensitive PII. Protections include encryption, implementing enhanced authentication mechanisms such as two-factor authentication, and limiting the number of people allowed access to the files.;
6. Store sensitive PII only on workstations that can be secured, such as workstations located in areas that have restricted physical access.

#### Protecting Electronic Transmissions of Sensitive PII via fax, email, etc.

1. When faxing sensitive PII, use the date stamp function, confirm the fax number, verify that the intended recipient is available, and confirm that he/she has received the fax. Ensure that none of the transmission is stored in memory on the fax machine, that the fax is in a controlled area, and that all paper waste is disposed of properly (e.g., shredded). When possible, use a fax machine that uses a secure transmission line;
2. Before faxing PII, coordinate with the recipient so that the PII will not be left unattended on the receiving end;
3. When faxing sensitive PII, use only individually-controlled fax machines, not central receiving centers;
4. Do not transmit sensitive PII via an unsecured information system (e.g., electronic mail, Internet, or electronic bulletin board) without first encrypting the information;
5. When sending sensitive PII via email, make sure both the message and any attachments are encrypted;
6. Do not place PII on shared drives, multi-access calendars, the Intranet, or the Internet.

## **7-I.Q. PROTECTING HARD COPY TRANSMISSIONS OF FILES CONTAINING SENSITIVE PII**

- Do not remove records about individuals with sensitive PII from facilities where HUD information is authorized to be stored and used unless approval is first obtained from a supervisor. Sufficient justification, as well as evidence of information security, must be presented;
- Do not use interoffice or translucent envelopes to mail sensitive PII. Use sealable opaque solid envelopes. Mark the envelope to the person's attention.;
- When using the U.S. postal service to deliver information with sensitive PII, double-wrap the documents (e.g., use two envelopes – one inside the other) and mark only the inside envelope as confidential with the statement –To Be Opened by Addressee Only.

### **Records Management, Retention, and Disposition**

1. Follow records management laws, regulations, and policies applicable within your jurisdiction;
2. Ensure all Public Housing Authority locations and all entities acting on behalf of the Authority are managing records in accordance with applicable laws, regulations, and policies;
3. Include records management practices as part of any scheduled oversight protocols.;
4. Do not maintain records longer than required;
5. Destroy records after retention requirements are met;
6. Dispose of sensitive PII appropriately – use cross-cut shredders or burn bags for hard copy records and permanently erase (not just delete) electronic records.

### **Incident Response**

1. Supervisors should ensure that all personnel are familiar with reporting procedures;

2. Promptly report all suspected compromises of sensitive PII related to HUD programs and projects to HUD's National Help Desk at 1-888-297-8689.

## **CHAPTER 8**

### **VOUCHER ISSUANCE AND BRIEFINGS**

#### **OVERVIEW**

This chapter explains the briefing appointment and voucher issuance. When a family is determined to be eligible for the Housing Choice Voucher (HCV) program, the Authority's job is to make certain that the families who participate in the program, understand the program and how it operates and have knowledge of the family's obligations under the program.

These important steps are accomplished through an oral briefing and the briefing packet containing the HUD-required documents and other important information the family needs to know in order to successfully lease a unit under the program.

Once the family has been informed of the program's requirements, the Authority issues the family a voucher. The voucher includes the unit size for which the family qualifies based on the Authority's subsidy standards, as well as the voucher term date (date issued and expires). The voucher is the document that authorizes the family to begin its search for a unit, and limits the amount of time the family has to successfully locate an acceptable unit.

The Authority'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 Authority 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, Authority 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, the information that will be provided to families, and the policies for how changes in the family composition will be handled.

### **8-I.A. ISSUANCE OF VOUCHERS [24 CFR 982.204(d)]**

When funding is available, the Authority 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 Authority stays as close as possible to 100 percent (100%) lease-up. The Authority performs a monthly calculation electronically to determine whether vouchers can be issued and to what extent the Authority can over-issue (issue more Vouchers than the budget allows).

The Authority may over-issue Vouchers only to the extent necessary to meet leasing goals.

### **8-I.B. BRIEFING TYPES AND REQUIRED ATTENDANCE**

#### Initial Applicant Briefing:

A full HUD required oral briefing will be conducted for applicant families who are determined to be eligible for assistance, at the issuance of the voucher, families transferring from one unit to another, families selected for project-based site unit, and special program vouchers. Briefings may conduct briefing appointments in-person in a group setting, by telephone as an individual, or via virtual meeting invitation to attend. Families who attend group briefings and still have the need for individual assistance will be referred to their selected Eligibility Specialist. Briefings will be conducted in English. Spanish briefings will be conducted upon request.

Portable families coming into Merced County's jurisdiction, whether absorbed or not by Authority, 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 Authority 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 Authority staff confirm that it is a valid reason, will be automatically scheduled for the next briefing. Applicants who fail to attend the first scheduled briefing, without prior notification and approval of the Authority, may be denied admission. The

Authority 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 Authority will ensure compliance with 24 CFR 8.6 to ensure effective communication.

When the Authority selects a family to participate in a tenant-based program, the Authority must give the family an oral briefing. The briefing must include information on the following subjects:

1. A description of how the program works;
2. Family and owner responsibilities; and
3. Where the family may lease a unit, including renting a dwelling unit inside or outside the Authority jurisdiction, and any information on selecting a unit that HUD provides.

The Authority is required to give selected eligible families an oral briefing. The briefing and handouts must include information for the voucher program. The Authority also includes other information and/or materials which are not required by HUD.

HUD allows Authorities to conduct the briefing by various means such as a webcast, video call, in-person, one-on-one by telephone, or expanded information packet.

Section 504 and the ADA require the Authority to ensure effective communication with applicants, participants and members of the public in all communications and notices. The Authority must ensure that the method of communication for the briefing effectively communicates with those who attend and allows for equal participation of each family member, including those with vision, hearing, and other communication-related disabilities, and ensures meaningful access for persons with limited English proficiency.

### **8-I.C. INFORMATION FOR WHEN A FAMILY IS SELECTED [24 CFR 982.301(b)]**

The Authority is required to give selected eligible families an oral briefing. Information provided in the briefing must include subjects: a description of how the program works, to ensure the family complies with HUD requirements.

The oral briefing topics must include family and owner responsibilities, where the family may lease a unit, including leasing in place, or within or outside the jurisdiction of the Authority. The briefing must include what portability is and how it works, an explanation of the advantages of moving from a high poverty area to a low poverty

area.

The Authority must take appropriate steps for all disabled persons attending the briefing to ensure effective communication in accordance with 24 CFR 8.6.

### **8-I.D. BRIEFING PACKET [24 CFR 982.301(b)]**

When a family is has been determined eligible to participate in the program, the Authority IS required to schedule the family to attend a voucher briefing appointment. The briefing is to explain the program and inform the family of their obligations while on the program. The briefing also explains the obligations of the Landlord and the Authority. The Authority provides the family with a packet that includes information on the voucher program, a copy of the presentation slides that explain the program, HUD requirements, how to use the voucher to look for a unit, and documentation about fair housing, lead base paint, what to do about discrimination, Merced county's jurisdiction, and other information and/or materials not required by HUD.s

The briefing informational packet contains the following information:

The HUD Voucher and Tenancy Addendum to be signed by the family, to be made part of the lease). The Tenancy Addendum outlines the terms of the voucher and tenant / landlord responsibilities as defined by HUD;

- The term of the voucher;
- voucher suspensions; an
- InFormation on requesting extensions; and
- How the program works;
- Family and owner responsibilities;
- Information about where the family may lease a unit, including renting a dwelling unit inside or outside the Authority's jurisdiction, and information on selecting a unit;
- Explains what the Request for Tenancy Approval (RFTA) form is and how to complete the form. This form is the document the family uses to request approval of a unit to be leased. (An explanation of how to request approval is outlined in the handout);

- Authority subsidy standards, including when the Authority will consider granting exceptions to the standards;
- Materials (e.g., brochures) on how to select a unit;
- Information on Federal, state and local equal opportunity laws;
- A housing discrimination complaint form and what to do if you feel discriminated against;
- 
- Information known to the Authority to search for a rental unit (resources to seek when searching such as newspapers, organizations, online search tools) covering areas outside of poverty or minority concentration;
- Upon request by a person with disabilities, a list of units known to the Authority for persons with disabilities and locations with accessible units;
- How the maximum allowable rent is determined;
- The boundaries of the geographical area in which the family may lease a unit including;
- Information about leasing in a jurisdiction outside of Merced County (portability);
- Authority privacy notice on what information the Authority can provide about families to prospective owners;
- Current Subsidy Standards;
- The HUD brochure, "A Good Place to Live" on how to select a unit that complies with HQS;
- The HUD brochure on lead-based paint;
- Disclosure of Lead Based Paint (to be signed by owner and Housing Choice Voucher participant);
- Information on federal, State and local equal opportunity laws;
- "Fair Housing: It's Your Right" booklet and other information about fair housing laws and guidelines (with local contact information);

- Form for reporting suspected discrimination;
- Information about leasing units outside areas of poverty or minority concentration;
- Family Obligations and Owner responsibilities under the program;
- Information about reporting changes to the household;
- Policy on Missed Appointments;
- Grounds on which the Authority may terminate assistance for a participant because of family action or failure to act;
- Sample of a HUD HAP contract.
- Supplemental material the Housing Choice Voucher Department may deem necessary, such as:
  - HUD HQS Inspection information (FAQ);
  - Information about how portability works and a list of neighboring housing agencies with contact available contact information;
- 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 about area schools, business and resource guide;
  - Transportation information;
- HUD Form – “Are You a Victim of Housing Discrimination?”
- How to serve notice to vacate;
- Informal Hearing requests and procedures including when the Authority is required to offer an applicant or participant family the opportunity for an informal hearing;
- Family Self-Sufficiency Brochure.

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

During the briefing, the Authority describes how the program works and the relationship between the family and the owner, the family and the Authority, and the Authority and the owner.

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

Families are scheduled to attend a briefing for the following:

- New Admissions;
- Transfer of units;
- Incoming Portability.

The Authority schedules families moving into or out of a Project-Based unit. Families moving in to a PBV unit do not receive a voucher. PBV program is a site-based program and funded by the Housing Choice Voucher (HCV) program. The same rules and responsibilities apply to both programs (information about the PBV program can be found in Chapter 23 of this administrative plan).

When a family is moving from a PBV unit and is eligible to transfer to an HCV voucher, the family must attend the briefing to receive a voucher.

### Move Briefing

Appropriate information will be provided to participants who will be reissued a voucher to move. Information for families who have had a certification of income in the last 120 days may be used. Information that is older than 120 days may require the family to complete an interim or transfer recertification prior to attending the briefing.

Continuously assisted families must serve the landlord with an intent to vacate and provide the Authority with a copy within ten days of service to landlord. Timely reporting of information allows the Authority to prepare the documents for the move.

### Owner Briefing:

Owners may attend a scheduled briefing at any time. The Authority may schedule Owner only briefings as a method of outreach. These events will be held as needed or one-on-one if requested by an Owner. The purpose of all briefings is to assure successful owner and tenant participation in the program.

The Authority will cover the responsibilities and roles of the three parties (Authority, Owner, and Tenant).

### **8-I.E. ENCOURAGING PARTICIPATION AND DECONCENTRATION**

The Authority encourages families to search for housing in non-impacted areas of deconcentration.

Authority will review and analyze when voucher holders are experiencing difficulties locating or obtaining housing units outside areas of concentration.

Assistance provided to participants includes:

- Providing families with a search record form to gather and record information;
- Information to contact with landlords;
- Counseling by request, with the family;
- Providing information about services in various non-impacted areas;
- Formal or informal discussions with landlords;
- Formal or informal discussions with social service agencies;
- Meeting with rental companies or agencies;
- Meeting with Fair Housing agencies.

### **8-I.F. 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 Authority.

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

The Authority will then take whatever appropriate action is necessary.

### **8-I.G. SECURITY DEPOSIT REQUIREMENTS**

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 (or the maximum prescribed by State or local law.)

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

### **8-I.H. TERM OF VOUCHER [24 CFR 982.303]**

At the close of the briefing session, families attending under the HCV program will receive a voucher which represents a contractual agreement between the Authority and the family specifying the rights and responsibilities of each party.

For new admission family's, this does not constitute admission to the program which occurs when the lease and contract become effective.

The voucher is valid for an initial period of at least sixty (60) calendar days from the date of issuance. The family must submit the Request for Tenancy Approval (RFTA) with a Lease/Rental Agreement within the sixty (60) day period unless an extension has been granted by the Authority.

#### Extensions:

The Authority may extend the voucher in one or more increments. Extensions that will exceed a total of 120 days must be approved by the Director of Housing Programs or their designee.

Except under extraordinary circumstances, no more than two (2) thirty (30) day extensions (or less) shall be granted and never for a total of more than 120 days.

As a reasonable accommodation for a person with disabilities (or under extraordinary circumstances) requests for an extension excess of 120 days, will be reviewed on a case by case basis.

A family must submit a written request for an extension of the voucher time period prior to the expiration date shown on the voucher. Extensions are permissible at the discretion of the Authority up to a maximum of an additional sixty (60) days primarily for these reasons:

- Extenuating circumstances such as hospitalization or a family emergency for an extended period of time which has affected the family's ability to find a unit within the initial sixty (60) day period (verification may be required);
- The Authority is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the Authority, throughout the initial sixty (60) day period. A completed search record may be required;
- The family was prevented from finding a unit due to disability accessibility requirements or a large size five (5) bedroom unit requirement. The search record may be required as verification.

#### Expirations:

If the Voucher has expired, and has not been extended by the Authority or expires after an extension, the family will be denied assistance. The family will not be entitled to an informal review or hearing and can reapply when the wait list is open.

If the family is currently assisted, and remaining in the current assisted unit (no longer vacating) when the voucher expires, the family may remain in place and assisted. The family will need to serve a vacate notice to move in the future.

The Authority may require a family to submit a list of unit searches and outcomes prior to granting additional time on the voucher (extensions).

#### Tolling Days:

The voucher term is suspended (the clock on the family's voucher is stopped) upon receipt of the Request for Tenancy Approval (RFTA) and remains on hold until the Authority approves or denies the RFTA submitted. The Authority may grant a family a suspension of the voucher term if the family has submitted a RFTA during the term of the voucher.

In the event the RFTA is disapproved or cancelled, the family is entitled to the remaining time from suspension date to the voucher expiration date (The period that the Authority holds the documents is not counted against the family's voucher term).

### Assistance to Voucher Holders:

Families who require additional assistance during their search may contact the Authority office to request assistance. Voucher holders will be notified at their briefing session that they may access updated listings of available units by visiting [AffordableHousing.com](http://AffordableHousing.com).

The Authority will assist families to negotiate rents with owners and provide other assistance related to the families' search for housing.

### **8-I.1. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS**

In instances when a family, who is assisted under the Housing Choice Voucher program, becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the Director of Rental Assistance or his or her designee shall consider the following factors to determine which of the families will continue to be assisted:

- Which of the two new family units has custody of the dependent children;
- Which family member was the head of household when the voucher was initially issued. (listed on the initial application);
- The composition of the new family units, and which unit contains elderly or disabled members;
- Whether domestic violence was involved in the breakup;
- Which of the family members remain in the original assisted unit.

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

Documentation of these factors will be the responsibility of the requesting parties. If documentation is not provided, the Authority will terminate assistance on the basis of failure to provide information necessary for a recertification.

### **8-I.J. REMAINING MEMBER OF FAMILY- RETENTION OF VOUCHER**

To be considered the remaining member of the tenant family, the person must have been previously approved by the Authority to be living in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the family.

In order for a minor child to continue to receive assistance as a remaining family member:

- The court has to have awarded emancipated minor status to the minor;
- The Authority has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the children for an indefinite period;
- A reduction in family size may require a reduction in the voucher family unit size.

## CHAPTER 9

### REQUEST FOR APPROVAL OF TENANCY AND HAP CONTRACT EXECUTION [24 CFR 982.302]

#### OVERVIEW

The Authority'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 Authority'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 a local Housing Authority.

Families will be permitted to move outside of the Authority'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 Payment (HAP) Contract with the Authority,

This chapter defines the types of eligible housing, the Authority policies which pertain to unit approval, initial inspections, lease requirements, Authority disapprovals, the processing of the Request for Tenancy Approval (RFTA), start to finishing execution of the HAP contract.

Pursuant to PIH Notice 2020-05 issued on April 10, 2020 and PIH Notice 2020-13 issued on July 2, 2020. The waivers implemented through the Notices provide administrative relief and allow for alternative approaches to various aspects of PHA operations. These waivers and alternative requirements are established under the authority of the Coronavirus Aid, Relief, and Economic Security (CARES) Act that these waivers and alternative requirements are necessary for the safe and effective administration of the Housing Choice Voucher program, consistent with the purposes described under the CARES Act, to prevent, prepare for, and respond to COVID-19. Notice PIH 2020-05 and restated in this PIH 2020-13 remain effective as of April 10, 2020. PHAs may adopt the use of any of these waivers at any time during the period of availability. **The period of availability for the HCV waivers is in most cases extended to December 31, 2022.**

### **9-I.A. TERM OF ASSISTED TENANCY [24 CFR 982.309]**

The Request for Tenancy Approval (RFTA) and all other unit and owner forms included with the voucher briefing packet must be completed, signed, and returned by the owner and the family. The Authority will not permit the family to submit more than one RFTA at a time. Upon receipt of the RFTA, the Authority will review the proposed lease and the RFTA documents to determine if the unit will be approved.

The request will be approved if:

- The unit is an eligible type of housing;
- The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan);
- The rent is reasonable and approvable;
- The security deposit is approvable in accordance with State or local law;
- The proposed lease complies with HUD and Authority requirements (see "Section D" of this chapter);
- The owner is approvable, and there are no conflicts of interest (see this Administrative Plan).

During initial move-in family initially receives assistance (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 forty percent (40%) of the family monthly adjusted income (see this Administrative Plan).

#### **Disapproval of Request for Tenancy Approval (RFTA):**

When the Authority is unable to approve the RFTA, the landlord and the family will be notified of the reason for the denial. The Authority will indicate the reason for disapproving the unit and offer ways to resolve.

If the Authority disapproves the RFTA, the family may request the Authority to furnish another RFTA form to the family so that the family can continue to search for eligible housing, and so long as the family is still eligible for the program. The time limit on the Voucher will be suspended while the RFTA is being processed. Days that remain on the voucher will be added to the

expiration date shown on the voucher, referred to as "tolling days".

When an owner and the Authority can not reach an agreement on the disapproval, the Authority will, within ten (10) days of notice, inform the owner and the landlord of its decision in a Final Disapproval notice. The family will be issued a new RFTA and any tolling days applicable will be added to the expiration date shown on the voucher.

### **9-I.B. ELIGIBLE TYPES OF SPECIAL HOUSING** [24 CFR 982.352]

The Authority will only approve the following special housing types. All other special housing types are ineligible.

- Shared Housing

A family can own a rental unit but cannot reside in it while being assisted.

The Authority 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.

The Authority will approve any of the following types of housing in the voucher program:

- All structure types can be utilized;
- Manufactured homes where the tenant leases the mobile home and the pad, space rent;
- Manufactured homes where the tenant owns the mobile home and leases the pad;
- Units owned (but not subsidized) by the Authority (following HUD prescribed requirements);
- Shared housing units that meets Housing Quality Standards;
- Assisted Living Units.

The Authority will not approve:

- A unit occupied by the owner or by any person with an interest in the unit, other than manufactured homes as described above;
- Nursing homes or other institutions that provide care;
- School dormitories and institutional housing;

- Any other type of housing prohibited by HUD.

### **9-I.C. RESTRICTION ON RENTING FROM RELATIVES [24 CFR 982.306 (D)]**

Effective June 17, 1998, the Department of Housing and Urban Development (HUD) has limited the circumstances under which landlords can lease a unit to relatives under the Housing Choice Voucher program. This policy applies to new admissions and to transfers. The Authority will not approve a unit if the landlord is related to any of the tenant's family members in one of the following ways:

- Parent
- Child
- Grandparent
- Grandchild
- Sister
- Brother

The Housing may approve a unit where the owner and the tenant are related if it determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities.

The Authority will not approve shared housing assistance for a family if the owner resides in the unit and is related by blood and/or marriage to the assisted family. Although other regulations permit the leasing of a rental unit from certain relatives when needed as a reasonable accommodation, the U.S. Department of Housing and Urban Development (HUD) has not established a similarly regulatory provision for shared housing.

### **9-I.D. LEASE REVIEW [24 CFR 982.308]**

The Authority will review the lease, particularly noting the approvability of optional charges and compliance with regulations and State and local law. The tenant also must have legal capacity to enter a lease under State and local law. Responsibility for utilities, appliances and optional services must correspond to those provided on the RFTA.

The family and owner must submit a standard form lease used in the locality by the owner and 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:

- The names of the owner and tenant;
- The address of the unit rented (including apartment number, if any);
- The amount of the monthly rent to owner;
- The utilities and appliances to be supplied by the owner;
- The utilities and appliances 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.

Effective September 15, 2000, the owner's lease must include the Lead Warning Statement and disclosure information required by [24 CFR 35.92(b)].

Actions before Lease Term:

The following must always be completed before the beginning of the initial term of the contract for a unit:

- The Authority has inspected the unit and has determined that the unit satisfies Housing Quality Standards (HQS);
- The Authority 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 Authority has approved leasing of the unit in accordance with program requirements when the gross rent exceeds the applicable payment standard for the family, the Authority must determine that the family share (total family contribution) will not be more than forty percent (40%) of the family's monthly adjusted income.

Term of the Assisted Tenancy:

The initial term of the lease must be for at least one year. The Authority may approve a shorter initial term if the Authority determines that:

- The shorter term would improve housing opportunities for the tenant;

- The shorter term is the prevailing local market practice;
- To recruit interest by new owners with rental units.

During the initial term of the lease, the owner may not raise the rent, change utility responsibility or otherwise made changes to the terms of the signed lease.

### 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 Authority.

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 Authority. If agreements are entered into at a later date, they must be approved by the Authority and attached to the lease.

The Authority will not approve separate agreements for modifications to the unit for persons with disabilities. The modifications are usually within the dwelling and are critical to the use of the dwelling.

### Rent Limitations:

The Authority 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. See Chapter 10 Rent Reasonableness section and PIH 2020-19.

The Authority 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 Authority, 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 Authority 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 and approved by the Authority.

### **9-I.E. DISAPPROVAL OF RENT [24 C FR 982.502]**

In any of the programs, if the proposed increase of contract rent is not reasonable, at the family's request, the Authority will attempt to 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 Authority will make efforts to negotiate with the owner to reduce the rent to an affordable rent for the family.

At the family's request, the Authority 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 Authority 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 Authority has tried and failed to negotiate a revised rent, the Authority will inform the family and

owner that the RFTA is disapproved.

### **9-I.F. INFORMATION TO OWNERS [24 CFR 982.307(b)]**

In accordance with HUD requirements, the Authority must furnish prospective owners with the family's current and prior address as shown in the Authority's records and, if known to the Authority, the name and address of the landlord at the family's current and prior address.

The Authority will make an exception to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

The Authority 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 Authority's policy on release of information to prospective landlords will be included in the briefing packet which is provided to the family.

The Authority will not provide documented information regarding tenancy history, except the Authority 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 Authority's policy on providing information to owners will apply uniformly to all families and owners.

The Authority will provide documented information regarding tenancy history for the past two (2) years to prospective landlords, upon written request from the landlord (if such information is available to the Authority).

The information will be provided in writing.

Only designated staff may provide this information. The Authority's policy on providing information to owners is included in the briefing packet and will apply uniformly to all families and owners.

### **Owner Disapproval [24 CFR 982.306]**

See Chapter 16, "Owner Disapproval and Restriction" of this Administrative Plan."

### **9-I.G. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP**

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 Authority 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 Authority 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.

### **9-I.H. CONTRACT EXECUTION PROCESS [24 CFR 982.305]**

The Authority prepares the Housing Assistance Payment (HAP) Contract for execution. The family and the owner will execute the lease agreement, and the owner and the Authority will execute the HAP Contract. Copies of the documents will be furnished to the parties who signed the respective documents. The Authority will retain a copy of all signed documents.

The Authority makes every effort to execute the HAP Contract before the commencement of the lease term. The HAP Contract may not be executed more than sixty (60) days after commencement of the lease term and no payments will be made until the contract is executed.

### **9-I.I. CHANGE IN OWNERSHIP**

**(See Chapter on "Owner Disapproval and Restriction)**

A change of ownership does not require execution of a new contract.

- The Authority 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 Authority, 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 RENT REASONABLENESS DETERMINATIONS

[24 CFR 982 Subpart I and 24 CFR 982.507,  
982.401 and 983.101]

#### OVERVIEW:

HUD requires that the Authority inspect all units occupied by participant families receiving Housing Choice Voucher (HCV) assistance to ensure that the unit meets HUD's Housing Quality Standards (HQS) and permits the Authority to establish additional requirements. The use of the term "HQS" in this plan refers to the combination of both HUD and "Authority established" requirements.

All units must pass an HQS inspection prior to the approval of a lease and at least once every twelve (12) months if conducted annually or twenty-four (24) months when biennial during the term of the contract, and at other times when needed, to determine that the unit meets HQS.

HUD also requires Public Housing Authorities (PHAs) to determine if rents for units under the program are reasonable when compared to similar unassisted units in the market area.

This Chapter states the housing quality standards (HQS) for housing assisted under the HCV program.

Effective October 1, 2024, HQS and UPCS transition to National Standards for the Physical Inspection of Real Estate (NSPIRE)

**CHAPTER 10  
HOUSING QUALITY STANDARDS AND  
RENT REASONABLENESS DETERMINATIONS**

**10-I.A. Rent Reasonableness Determinations [24 CFR 982.507]**

HUD issued notice "Rent Reasonableness – Defining Assisted Units for the Housing Choice Voucher (HCV) and Project-Based Voucher (PBV) Programs" providing guidance when determining whether rents are reasonable.

The Authority must always ensure that the rent to owner for a unit in which an HCV assisted or Project Based Voucher (PBV) assisted family will reside does not exceed the rent to owner for comparable unassisted units on or near the unit address. Owners must agree that by accepting each monthly housing assistance payment, the owner certifies that the contract rent is not more than the rent charged by the owner for comparable units in the premises.

The following is a summary of changes in relation to rent reasonableness under the HCV program, regardless if the property underwent any conversion action:

- Unassisted units on the property;
- An owner who offers a rent concession for unassisted units at the property must also offer them to HCV/PBV participants (24 CFR 982.507 and 983.305). The Authority must use the actual amount of rent for such unassisted units (that is the rent with the concession) in determining the reasonable rent amount;
- (Example: an HCV family is looking to rent a unit in Property A. The rent to owner is generally \$800 month, but the owner offers a rent credit (a rent concession) of \$100 during the first two months of occupancy. During the initial lease term, the rent amount that the Authority must use for determining the reasonable rent is \$700 for two months (1400) and \$800 for the remaining ten months' at (\$8000) in a 12-month period., per \$783

per month for 12 months;

- Units occupied by certain employees of the property management company;

In some rental markets it is common practice for certain employees of the property management company (e.g., a resident manager) to reside in the property rent-free or at a significantly reduced rent as part of their employment compensation. Under such limited circumstances, the rent for these units does not represent the rent that is charged or would be charged for a comparable unassisted unit and the Authority must not take them into account in making rent reasonableness determination.

- Using recent rentals in multifamily properties:

In the case of a family moving into a multifamily property, the Authority may choose to only consider the most recent rentals in determining the rents that the owner is charging for comparable unassisted units. In some markets, new families routinely pay higher rents than longer time families in comparable units may be paying (often due to local rent stabilization programs or ordinances that limit rent increases for existing families).

- Rent Increases:

In determining if subsequent rent increases result in rents that are reasonable for units occupied by families under voucher HAP contracts, the Authority must take into consideration any rent-setting policies by the owner for existing families. Any increases in rent over time for HCV assisted families must be similar to increases charged to unassisted families who have lived in their units for approximately the same amount of time.

The State of California recently passed AB1847 on rent caps to prevent homelessness created by owners inflating the local rental market. Under this regulation, an owner may not increase the contract rent amount more than 10% in a 12-month period. The regulation provides some exemptions for certain types of single-family homes built within the last 15 years, or for tax-credit, non-profit, low-income units.

Owners submitting a request to increase the contract rent must have had their rental units last inspection reflect a "pass" status for the Authority to consider the request. Units that reflect a "fail" status must

pass inspection prior to consideration.

## **PHYSICAL STANDARDS**

### **10-I.B. General HUD Requirements and Inspection Types** [24 CFR 982.401(A) Subpart I, 982.405]

Effective October 1, 2023 the definition for Housing Quality Standards (HQS) is revised to read as follows:

#### Housing Quality Standards (HQS):

The minimum quality standards developed by HUD in accordance with 24 CFR 5.703 for the HCV program or the HUD approved alternative standard for the Authority under 24 CFR 5.703(g).

#### Physical Standards:

This part discusses the physical standards required of units occupied by HCV-assisted families and identifies decisions about the acceptability of the unit that may be made by the family based upon the family's preference.

#### The Inspection Process:

This part describes the types of inspections the Authority will make and the steps that will be taken when units do not meet HQS. It also identifies life-threatening conditions that must be addressed on an expedited basis.

#### Special HQS:

Requirements for homeownership, manufactured homes, and other special housing types are described in this Administrative Plan.

### Additional Standards:

The Authority has adopted local requirements of acceptability in addition to those mandated by HUD Regulations.

All units must meet the minimum standards set forth in the California and local housing building codes. In cases of inconsistency between the Code and these housing quality standards, the stricter of the two shall prevail.

In accordance with Section 220 of the 2014 Appropriations Act, the Authority may conduct biennial inspections in lieu of annual inspections. Once the Authority has conducted a complete inspection under a Housing Assistance Payment Contract, it may not re-inspect until the lapse of 24 months following the last inspection.

This does not apply to initial inspections for units that are not yet under a Housing Assistance Payment Contract. Prior to entering into a HAP contract, all units are still required to pass initial inspection.

### Special Inspections:

The Authority will continue to conduct special inspections on an as needed basis. The Authority may conduct more frequent inspections on units under Housing Assistance Payment contract that are suspected of detrimental failed items

### Inspection Appointments:

The family must allow the Authority to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)]. Inspections will be conducted on business days only. Reasonable hours to conduct an inspection are between 7:30 a.m. and 5:00 p.m. The Authority will notify the family in writing or by phone at least 24 hours prior to the inspection.

The same rule applies to missed inspection appointments as under the Family Obligations wherein failure to comply with scheduled appointments is a violation of the Family Obligations and failure to attend two (2) appointments without good cause is grounds for termination of assistance. If the family misses two (2) inspection appointments, the family has violated a family obligation and their assistance will be terminated in accordance with the termination procedures in this Administrative Plan.

Effective October 1, 2023 under the National Standards for the Physical Inspection of Real Estate (NSPIRE) model becomes effective for HQS. The NSPIRE model has three major components:

Three types of inspections:

- Self-inspections by Authority's and owners and agents of private, HUD-assisted multifamily housing;
- Inspections conducted by contractors and/or federal inspectors; and
- Inspections conducted solely by federal inspectors.

HUD will inspect participating properties at least once during the demonstration using the NSPIRE standards.

Three categories of physical deficiencies:

- Health and safety;
- Function and operability; and
- Condition and appearance.

HUD states that ideally, each category could result in emergency work orders, routine work orders, and other maintenance.

Three inspectable areas:

- Inside (common areas and building systems);
- Outside (building site and building envelope); and
- Units (the interior of an individual home).

Where a Family Can Live "Eligible Housing: 24 CFR 982.352(3):

To inspect the unit for compliance with HQS in accordance with 24 CFR 982.305(aa) and 982.405, the independent entity shall communicate the result of each such inspection to the family and the Authority.

**10-I.C. DWELLING UNIT: HQS, SUBSIDY STANDARDS,**  
**INSPECTION AND MAINTENANCE [24 CFR § 982.401]**

Housing Quality Standards (HQS)

Performance and acceptability requirements:

This section states the housing quality standards (HQS) for housing assisted under the HCV program:

HUD's performance and acceptability standards for HCV assisted housing units are provided in 24 CFR 982.401. The standards as outlined below cover the key aspects of housing quality and state the HQS criteria for units assisted under the HCV program.

HQS criteria consist of:

- Sanitary facilities;
- Food preparation and refuse disposal;
- Space and security;
- Thermal environment;
- Illumination and electricity;
- Structure and materials;
- Interior air quality;
- Water Supply
- Lead Based Paint;
- Access;
- Site and neighborhood;
- Sanitary condition; and
- Smoke detectors/Carbon Monoxide detectors

All program housing must meet the HQS performance requirements both at commencement of assisted occupancy and throughout the assisted tenancy.

In addition to meeting HQS performance requirements, the housing must meet the acceptability criteria stated in this section, unless variations are approved by HUD.

HUD may approve acceptability criteria variations for the following purposes:

- Variations which apply standards in local housing codes or other codes adopted by the PHA; or
- Variations because of local climatic or geographic conditions

Acceptability criteria variations may only be approved by HUD if such variations:

- Meet or exceed the performance requirements; or
- Significantly expand affordable housing opportunities for families assisted under the program;
- The facilities must utilize an approvable public or private disposal system (including a locally approvable septic system);

Food preparation and refuse disposal:

Performance requirement:

- The dwelling unit must have suitable space and equipment to store, prepare, and serve foods in a sanitary manner;
- There must be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities of temporary storage where necessary (e.g. garbage cans);

At a minimum, the dwelling unit must have a living room, a kitchen area, and a bathroom.

- The dwelling unit must have at least one bedroom or living/sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room;
- Dwelling unit windows that are accessible from the outside, such as basement, first floor, and fire escape windows, must be lockable (such as window units with sash pins or has locks, and combination windows with latches). Windows that are nailed shut are acceptable only if these windows are not needed for ventilation

or as an alternate exit in case of fire;

- The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.

#### Thermal environment:

##### Performance requirement

The dwelling unit must have and be capable of maintaining a thermal environment health for the human body.

##### Acceptability requirement criteria:

- There must be a safe system for heating the dwelling unit (and a safe cooling system, where present). The system must be in proper operating condition. The system must be able to provide adequate heat (and cooling if applicable), either directly or indirectly, to each room, in order to assure a healthy living environment appropriate to the climate;
- The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Electric heaters are acceptable.

#### Illumination and electricity:

##### Performance requirement

Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. The electrical fixtures and wiring must ensure safety from fire.

##### Acceptability criteria:

- There must be at least one window in the living room and in each sleeping room;
- The kitchen area and the bathroom must have a permanent ceiling or wall light fixture in proper operating condition. The kitchen area must also have at least one electrical outlet in property operating condition;

- The living room and each bedroom must have at least two (2) electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets.

Structure and materials:

Performance requirement

- The dwelling unit must be structurally sound. The structure must not present any threat to the health and safety of the occupants and must protect the occupants from the environment.

Acceptability criteria:

- Ceilings, walls, and floors must not have any serious defects such as severe bugling or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage;
- The roof must be structurally sound and weathertight;
- The exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation;
- The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable;
- Elevators must be working and safe.

Interior air quality:

Performance requirement

- The dwelling unit must be free of pollutants in the air at levels that threaten the health of the occupants.

Acceptability criteria:

- The dwelling unit must be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and

other harmful pollutants;

- There must be adequate air circulation in the dwelling unit;
- Bathroom areas must have one openable window or other adequate exhaust system;
- Any room used for sleeping must have a least one window. If the window is designed to be openable, the window must work;

Water Supply:

Performance requirement

- The water supply must be free from contamination.

Acceptability criteria.

- The dwelling unit must be served by an approvable public or private water supply that is sanitary and free from contamination.

Lead-based paint:

Performance requirement.

- 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 as part 35, subparts A, B, M, and R of this title apply to units assisted under this part.

Access performance requirement:

- The dwelling unit must be able to be used and maintained without unauthorized use of other private properties. The building must provide an alternate means of exit in case of fire (such as fire stairs or egress through windows).

Site and Neighborhood:

Performance requirement

- The site and neighborhood must be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants.

Sanitary condition:

Performance requirement

- The dwelling unit and its equipment must be in sanitary condition.

Acceptability criteria.

- The dwelling unit and its equipment must be free of vermin and rodent infestation.

Smoke detectors:

Performance requirement

- Except as provided in paragraph (n)(2) of this section, each dwelling unit must have at least one battery-operated or hard-wired smoke detector in proper operating condition, on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics. Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association (NFPA) 74 (or its successor standards). If the dwelling unit is occupied by any hearing-impaired persons as specified in NFPA 74 (or successor standards).
- For units assisted prior to April 24,1993, owners who installed battery-operated or hard-wired smoke detectors prior to April 24, 1993, in compliance with HUD" s smoke detector requirements, including the regulations published on July 30, 1992, (57 FR 33846), will not be required subsequently to comply with any additional requirements mandated by NFPA 74 (i.e., owner would not be required to install a smoke detector in a basement not used for living purposes, nor would the owner be required to change the location of the smoke detectors that have already been installed on the other floors of the unit).

**10-1. D. ADDITIONAL LOCAL REQUIREMENTS:**

The Authority may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing services for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variation are clarifications of HUD's acceptability criteria

or performance standards. [24 CFR 982.401 (a)(4)].

Thermal Environment: The Authority must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the climate.

The heating system must be capable of mainstreaming an interior temperature of 68 degrees Fahrenheit between October 1 and May 1. (Absence of a heating system when outside temperature is below 68 degrees Fahrenheit is listed as a “life-threatening” condition).

HUD gives the Authority discretion on adopting other local or state ordinances. The Authority has adopted the following state or local code specific requirements that elaborate on HUD standards:

Carbon Monoxide Detector:

- Effective July 1, 2011, California law requires at least one carbon monoxide detector (CO2) alarm in all existing single-family dwellings with either a fuel-burning heater, fuel-burning appliance, fireplaces or an attached garage.
- Effective July 1, 2013, all other single-family dwellings became required to have at least one CO2 alarm.

The new law is referred to as the California Carbon Monoxide Poisoning Prevention Act of 2010. This law makes significant changes to the building codes, the Transfer Disclosure Statement (TDS) and also modifies the Seller's Smoke Alarm and Water Heater Bracing certification statements.

The new rules require CO2 alarms/detectors in new construction and alterations/remodels with a permit value of \$1,000 or more. The new CBC-R 2010 requirements are similar to the requirements for smoke alarms. If multiple CO2 alarms are installed, they must be interconnected. In new construction and remodels, they must be hard-wired with battery back-up power where feasible. In remodels where walls, ceiling finishes prevent and/or accessibility issues exist, then

battery only CO2 units are allowed. CO2 alarms are required outside sleeping areas, there should be at least one alarm per level including finished basement.

Smoke detectors for persons with hearing disabilities:

One (1) smoke detector for the hearing impaired will be required in the household per the following criteria:

- Must meet National Fire Protection Standard 74 (NFPAS) (or its successor standard).
- Must be located within the bedroom of the hearing-impaired person. If existing smoke detectors are hardwired, the smoke detector designed for the hearing-impaired must be hardwired to the primary smoke detector. If the existing smoke detector system is NOT hardwired, the hearing-impaired smoke detector must be installed within the bedroom. It is not required to be hardwired but must have a battery back-up.

Hearing impaired smoke detectors must meet the following qualifications:

- 177 Candela strobe light
- 85 Decibel (dBA)

The Authority may accept landlord and tenant certification that the appropriate criteria has been met.

- Doors cannot have double key dead bolt locks;
- The exterior doors to the dwelling unit must lock from the inside;
- Exterior doors are doors by which someone can enter or exit the dwelling unit.

Security:

- If window security bars or security screens are present on an 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.

#### Bedrooms:

- Bedrooms in basements, attics or garages are not allowed unless they meet local code and HQS requirements and must have adequate ventilation and emergency exit capability.
- Verifications regarding local requirements may be requested.

#### Water Heater:

- Water heaters must have a temperature-pressure relief valve and discharge line (directed towards the floor or outside of the living area) as a safeguard against buildup of steam if the water heater malfunctions. Discharge pipes must be made of rigid pipe material (not garden hose or thin plastic pipe). Water heaters shall be anchored, braced or strapped to resist horizontal displacement due to earthquake motion. Strapping shall be at points within the upper one-third and lower one-third of the appliance's vertical dimensions. At the lower point, the strapping shall maintain a minimum distance of 4 inches above the controls.

#### Pools:

- Pools should not be empty or create unsafe conditions for the family. The Authority may request that a fence be built around the pool or other safety devices be installed to ensure the safety of small children.

#### Fences:

- For safety reasons, owners may be requested to install, repair or remove a fence.

#### Mail Boxes:

- Each unit must have its own official mailbox where the U.S. Postal Service officially deliver mail to the physical addresses.

### Utility Meters:

- Each unit must have individual meters to measure the family's consumption if they are to be responsible for paying certain utilities, such as gas, water and electricity. The owner will be responsible for paying utilities for units with centralized meters.

### Windows:

- Although 24 CFR 982.401(f) (2) (I) states "There must be at least one window in the living room and in each sleeping room", 24 CFR 982.401 (f)(1) Performance Requirement states "Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants."

The 2013 California State Building Code (CBC) Section 1205.1 states that "Every space intended for human occupancy shall be provided with natural light by means of exterior glazed openings in accordance with Section 1205.2 or shall be provided with artificial light in accordance with 1205.3" which states: "Artificial light shall be provided that is adequate to provide an average illumination of 10 foot-candles (107 lux) over the area of the room at a height of 30 inches above the floor area."

## **10-1. E. TYPES OF INSPECTIONS**

The Authority conducts the following types of inspections:

### Initial Inspections:

The Authority conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program.

HUD has provided Authority's with a waiver that changes traditional initial inspection requirements during the waiver period, allowing for owner certification that there are no life-threatening deficiencies that exist at the unit to be assisted. The Authority must inspect the unit no later than 1-year anniversary of the date of the owner's certification. Additionally, HUD is allowing Authorities to commence the Housing Assistance Payment (HAP) contract prior to the unit passing initial inspection (using self-certification method described above). This waiver expires December 31, 2021.

### Annual/Biennial Inspections.

HUD requires the Authority to inspect each unit under lease at least annually or biennially, depending on Authority Policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.

### Special Inspections/Interim Inspections:

[24 CFR 982.405(g) an] and [24 CFR 983.103(e)].

A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.

### Housing Quality Control Inspections. [24 CFR 982.405(b)]:

Regulations require Authority's to conduct supervisory quality control inspections of a sampling of units under contract by the Director of Housing Programs or his/her designee or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

At the discretion of the Authority, high performing units having a history of passed HQS Inspections may be considered for biennial inspections.

### Inspection of Authority-Owned Units: [24 CFR 982.404]

The Authority must obtain the services of an independent entity to perform HQS inspections in cases where an HCV family is receiving assistance in an Authority-owned unit.

An Authority-owned unit is defined as a unit that is owned by the Authority that administers the assistance under the consolidated Annual Contributions Contract (ACC) (including a unit owned by an entity substantially controlled by the Authority). The independent agency must communicate the results of each inspection to the family and the Authority. The independent agency must be approved by HUD, and may be the unit of general local government for the Authority jurisdiction (unless the Authority is itself the unit of general local government or an agency of such government).

Effective October 1, 2023, the NSPIRE method revises the language as follows:

Physical Inspections – Initial and Periodic Unit Inspections: 24 CFR 982.305(b)(2) HOTMA)

General requirements:

The Authority must inspect the unit leased to a family prior to the initial term of the lease, at least biennially during assisted occupancy, and at other times as needed, to determine if the unit meets HQS. PHA's with more than 1250 budgeted units in its tenant-based program, within reasonable time after the family submits a request for approval of tenancy. To the extent practicable, such inspection and determination must be completed within fifteen days after the family and the owner submit a request for approval of tenancy.

HOTMA allows a household to move into a unit and begin making housing assistance payments to the owner if the unit does not meet HQS, as long as the deficiencies are not life-threatening.

The AUTHORITY must withhold payments to the owner if the unit does not meet HQS standards 30 days after the household first occupies the unit.

If an initial inspection identifies non-life-threatening (NLT) deficiencies, the Authority must provide a list of the deficiencies to the household and offer the household an opportunity to decline a lease without jeopardizing its voucher. The AUTHORITY must also notify the household that if the owner fails to correct the NLT deficiencies within the time period specified by the AUTHORITY, the AUTHORITY will terminate the HAP contract and the family will have to move to another unit.

If the household declines the unit, the AUTHORITY must inform the household of how much search time they have remaining to find another unit. In addition, the AUTHORITY must suspend (stop the clock) of the initial or any extended term of the voucher (to search for another unit) from the date the household submitted the request for AUTHORITY approval of the tenancy until the date the AUTHORITY notifies the household in writing whether the request has been approved or denied.

Alternatively, Authority's may allow a household to move into a unit

before the AUTHORITY conducts its own HQS inspection, as long as the unit passed a comparable, alternative inspection within the previous 24 months.

Implementing guidance still requires an AUTHORITY to conduct its own inspection within 15 days.

### Inspection Costs

The Authority may not charge the family for unit inspections or re-inspections [24 CFR 982.405(e)]. In the case of inspections of Authority-owned units, the Authority may compensate the independent agency from ongoing administrative fee for inspections performed. The Authority and the independent agency may not charge the family any fee or charge for the inspection.

The Authority may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, the Authority may charge a reasonable fee to owners for re-inspections in two situations: when the owner notifies the Authority that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to the Authority's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

### Authority Policy

The Authority does not charge a fee for failed re-inspections.

## **10-1. F. NOTICE AND SCHEDULING**

The family must allow the Authority to inspect the unit at reasonable times with reasonable notice [24 CFR 982.551(d)]. Failure to do so is grounds for termination of assistance and a violation of the Obligations

of the Family.

### Authority Policy

Both the family and the owner will be given reasonable notice of when scheduling an inspection appointment. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than 48 hours. Inspections may be scheduled between 8:00 a.m. and 5:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, the Authority will give as much notice as possible, given the nature of the emergency. Notification may be by telephone, email, or U.S. Mail.

## **10-1. G. GENERAL HUD REQUIREMENTS – HUD PERFORMANCE AND ACCEPTABILITY STANDARDS** [24 CFR 982.40]

### Owner and Family Inspection Attendance

HUD permits the Authority to set policy regarding family and owner presence at the time of inspection.

#### Authority Policy:

When a family occupies the unit at the time of inspection an adult must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

At initial inspection of a vacant unit, the Authority will inspect the unit in the presence of the owner or owner's representative. The presence of a family representative is permitted, but is not required.

### Modifications to Provide Accessibility

Under the Fair Housing Act of 1988, an owner must not refuse the request of a family that contains a person with a disability to make any reasonable modifications to the unit. The owner may require restoration of the unit to its original condition if the modification(s) would interfere with the owner or next occupant's full enjoyment of the premises. Such modifications are at the family's expense.

The owner may not increase a customarily required security deposit. The landlord may negotiate a restoration agreement that requires the family to pay a reasonable amount in an interest-bearing escrow

account over a period of time. The interest in any such account accrues to the benefit of the tenant. The owner may require reasonable assurances that the quality of work will be acceptable and that any required building permits will be obtained [24-CFT35.151c].

Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities.

#### Authority Policy:

Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to the Authority for review.

### **10-1. H. RFTA - TIMELY INITIAL HQS INSPECTION:**

The initial inspection is scheduled when a family submits a Request for Tenancy Approval (RFTA) form. The information for the unit must pass the rent reasonableness study before it is scheduled for the initial inspection. Initial inspections are conducted when an assisted family is seeking to lease a unit. The Authority will periodically review the average time required for a family and owner to have a unit inspected from the time the RFTA is submitted by the family and owner to the Authority.

The Authority will process the RFTA to determine whether the unit asking contract rent is affordable to the family and inspect the unit to ensure it satisfies the HQS criteria before executing a Housing Assistance Payment contract. The Authority will notify the family and owner within fifteen (15) calendar days from receipt of the RFTA whether or not asking contract rent amount was determined affordable for the family. Units found to be affordable will be scheduled for the initial inspection. Both the owner and the family will be notified within the 15 days. Units that are found not to be affordable and fail rent reasonableness shall be notified that the rent exceeds the family's maximum burden for rent and make good faith attempts to negotiate a lower contract rent amount suitable for the family. If the Authority determines that it is unable to approve a unit within the timeframe, or is unable to negotiate a lower approvable rent amount, the RFTA and unit will be disapproved and a new RFTA issued to the family. With the case file appropriately documented.

If the Authority determines after a review of files that the average time for the Authority to process an RFTA for the family and owner and/or to

obtain an initial inspection is longer than fifteen (15) days, the Authority will review staffing needs relevant to the HQS inspection.

The Authority may, but is not required to, approve assisted tenancy, execute a Housing Assistance Payment (HAP) contract and commence payment if the unit fails HQS inspection, but only if the deficiencies identified are non-life-threatening. Further, the Authority may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last 24 months.

### Authority Policy

The unit must pass the HQS inspection on or before the effective date of the HAP contract for the HCV program unless otherwise waived by HUD for a specific purpose. The Authority has discretion in if it will rely on alternative inspections methods.

## **10-1. I. ENFORCEMENT OF HQS [24 CFR 982.407]**

[24 CFR Part 982] does not create any right of the family, or any party other than HUD or the PHA, to require enforcement of the HQS requirements by HUD or the PHA, or to assert any claim against HUD or the PHA, for damages, injunction or other relief, for alleged failure to enforce the HQS.

Effective October 1, 2023 under NSPIRE, enforcement of HQS states:

HQS deficiencies that are life-threatening must be fixed within 24 hours and HQS conditions that are not life-threatening must be fixed within 30 days. The AUTHORITY may withhold assistance during this time.

HOTMA places into law the 24-hour and 30-day time periods that already existed in regulation.

If an owner fails to make the non-life-threatening corrections within 30 days, the AUTHORITY must withhold any further HAP payments until those conditions are addressed and the unit meets HQS. The AUTHORITY may withhold payments up to 180 days. Once a unit is found to be in compliance, the AUTHORITY may reimburse the owner for the period during which payments were withheld.

If an owner fails to make the non-life-threatening corrections after 30

days (or life-threatening violations within 24 hours), the AUTHORITY must abate assistance, notifying the household and owner of the abatement and that the household must move if the unit is not brought into HQS compliance within 60 days after the end of the first 30-day period.

The owner cannot terminate the household's tenancy during the abatement, but the household may terminate its tenancy if it chooses.

The household must have at least 90 days to find another unit to rent. If the household cannot find another unit, then the AUTHORITY must give the household the option of moving into a public housing unit. The AUTHORITY may provide relocation assistance to the household, including reimbursement for reasonable moving expenses and security deposits, using up to two months of any rental assistance amounts withheld or abated.

#### **10-1. J. INSPECTION PROCESS [24 CFR 982.406]**

Pre-HAP: Contract inspections are conducted prior to the execution of a new HAP.

Initial inspections: Inspection of units prior to providing assistance to a new family in a contract unit to ensure the unit the HAP contract is covering fully complies with the HQS.

Annual inspections: Conducted annually, within 12 months of the last inspection.

Biennial inspections: Inspections that may be conducted within 24 months of the last Authority passed inspection.

The family and owner are notified of the date and time of all inspection appointments either by mail, email or telephone. If an adult family member is unable to be present on the date of the inspection, they may authorize a representative who is 18 years of age or older to be present and allow the inspector access to unit to conduct the inspection. A family may provide written permission for the property

manager or owner to allow the inspector entry into the unit.

For good cause only, the family may request to reschedule the appointment so long as the inspection is completed within thirty (30) days of the original inspection date.

### **10-1. K. INSPECTION RESULTS**

#### Failed Inspections:

If the unit fails the inspection, the family and owner are notified of the deficiencies by mail, email, or telephone (dependent if it must be reinspected within 24-hours for health and safety deficiencies).

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For all other deficiencies, the Authority allows 21-30 days for all other repairs to be completed.

#### Authority Policy:

Verification that the deficiencies have been corrected may be done by other means than an in-person re-inspection. If the family is not at home on the date and time of an inspection appointment, the inspector may leave a door hanger or card at the unit advising of the missed appointment(s). The Authority appointment letter contains a warning that if a unit fails a 2<sup>nd</sup> reinspection for owner responsible repair items, the unit is subject to abatement. During abatement the HAP may be withheld for a period not to exceed thirty (30) days. If an Owner fails to repair the deficiencies within the thirty (30) day period of abatement, the HAP contract will be terminated and the family will be required to move. Families who fail to move may become responsible for the contract rent when subsidy is terminated.

The Authority conducts an inspection in accordance with HQS at least annually, as required by SEMAP. Special inspections may be scheduled between anniversary dates. HQS deficiencies, which cause a unit to fail, must be corrected by the landlord, unless it is a deficiency for which the tenant is responsible.

#### Authority Policy

If an adult family member cannot be present on the scheduled date, the family should request that the Authority reschedule the inspection. The Authority and family will agree on a new inspection date that generally should take place within 5 business days of the originally- scheduled date. The Authority may schedule an inspection more than 5 business days after the original date for good cause.

If the family misses the first scheduled appointment without requesting a new inspection date, the Authority will automatically schedule a second inspection. If the family misses two scheduled inspections without Authority approval, the Authority will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance.

### **10-I.L. SPECIAL INSPECTIONS [24 CFR 982.405(q)]**

If a participant or government official reports a life-threatening condition which the owner would be required to repair within 24 hours, the Authority must inspect the unit within 24 hours of notification.

If the reported condition is not life-threatening, the Authority must inspect the unit within 15 days of notification.

#### Authority Policy

During a special inspection, the Authority generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HOS deficiencies that are observed and will require the responsible party to make the necessary repairs.

If the annual inspection has been scheduled or is due within 90 days of the date the special inspection is scheduled the Authority may elect to conduct a full annual inspection.

#### Time Standards for Repairs

Emergency items which endanger the family's health or safety must be corrected within 24 hours of notification.

For non-emergency items, repairs must be made within 21-30 days. For

major repairs, Housing Program Director or his/her designee may approve an extension beyond 30 days.

### Rent Increases and Inspections

Rent to owner increases will not be approved if the unit is in a failed condition. Rent increases will not be approved within the initial contract term. The units last inspection must have a passed HQS inspection.

All requests to increase the rent must undergo a rent reasonableness study prior to the rent being approved. (See Rent Reasonableness in Chapter 8).

### Acceptability Criteria and Exceptions to HQS

The Authority adheres to HQS acceptability criteria and/or local building and code enforcement requirements, whichever is the more stringent of the two.

## **10-I.M. SMOKE DETECTORS FOR PERSONS WITH HEARING DISABILITIES**

Smoke detector(s) for the hearing impaired will be required in the household per the following criteria:

- Must meet National Fire Protection Association Standard 74 (or its successor standard);
- Must be located within the bedroom of the hearing-impaired person;
- If existing smoke detectors are hardwired, the smoke detector designed for the hearing impaired must be hardwired to the primary smoke detector;
- If the existing smoke detector system is not hardwired, the hearing-impaired smoke detector must be installed within the bedroom. It is not required to be hardwired but must have a battery back-up;

- Hearing impaired smoke detectors must meet the following qualifications:
  - 177 candela strobe light
  - 85 decibel (DBA)

The Authority may accept landlord or tenant certification that the appropriate criteria has been met.

Under NSPIRE, effective October 1, 2023, smoke detectors must be equipped with a 10-year sealed battery or be hard-wired.

Each level of the unit (including basement) must have a smoke detector as well as a detector in each sleeping room (and outside each bedroom if not in the same hall space). If mounted on ceiling, they must be more than 4" (inches) from the wall. If mounted on the wall, they must be between 4" and 12" from ceiling. Basement detectors must be installed on the ceiling at the bottom of the stairs leading to the next level. On levels without bedrooms, the detector must be installed in the main living area or near the stairway leading to the upper level (or in both).

### Carbon monoxide detector

California Health and Safety Code 13260 requires that an owner or owner's agent of a dwelling unit intended for human occupancy that rents or leases the dwelling unit to a tenant shall maintain carbon monoxide devices in the dwelling unit;

- Carbon Monoxide detectors shall be installed on every floor, including the basement and outside each sleeping area;
- The carbon monoxide device shall be operable at the time that the tenant takes possession of the unit;
- A tenant shall be responsible for notifying the owner or owner's agent if the tenant becomes aware of an inoperable or deficient carbon monoxide device within his or her unit;
- The owner or owner's agent shall correct any reported deficiencies or inoperability's in the carbon monoxide device.

California's Carbon Monoxide Poisoning Prevention Act of 2010 requires

that all residential properties be equipped with a carbon monoxide detector when the property has a fossil fuel burning heater such as a gas stove, gas furnace, gas water heater or any other appliance, fireplace, and/or attached garage. All single-family homes in the above-mentioned structure types must be equipped with a detector on or before July 1, 2011.

All other multi-family residential units (apartments, duplex's, etc.) must be equipped with a carbon monoxide detector on or before January 1, 2013.

Bedrooms:

- 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.

### Cabinets

- If present, cabinet drawers and doors must be intact, 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 any hazard.

### Doors:

- Doors cannot have double key dead bolt locks. The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit;
- 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).

### Fences:

For safety reasons, owners may be requested to install, repair or remove a fence.

### Floors:

- All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be re-secured and made level. If they cannot be leveled, they must be replaced;
- All floors must be in a finished state, 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.

Effective October 1, 2023, revised under NSPIRE, GFCI protection required at outlets within 6 feet of water sources (within the same room). Distance is measured from the center of water source to the outlet.

Outlets designated for major appliances (refrigerator, washing machines, etc.) are not required to be protected (neither are outlets located below the countertop and enclosed in a cabinet).

GFCI breaker(s) installed in the electrical panel and not at the outlet are sufficient to meet the standards. The inspector will need to access the electrical panel or the item will be marked as a failed for deficiency.

### Landscaping

All yards must conform to neighborhood standards. Single family units or duplexes must have one operating outside water faucet.

### Mail Boxes

Each unit must have its own official mailbox where the U.S. Postal Service officially delivers mail to the physical addresses.

## 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 may be 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;
- The Authority will require signed statement from participant that they are aware and allowing owner permission to store belongings in the detached garage;
- 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;
- Fireplaces must have a "cap"/spark arrester.
- The Authority may require at the time of inspection that the chimney be cleaned and/or inspected.

## 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. Authority will allow execution of the Authority contract if unit meets all requirements and the modifications do not affect the livability of the unit.

## Pools

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.

## Sanitary

The Authority may fail unsanitary conditions were 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 leech lines;
- 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.

### Security

If window security bars or security screens are present on an 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.

### 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.

### Toilet Seats

Cracked toilet seats and tank lids must be replaced. Toilet tank lid must fit properly

### Utility Meters

Each unit must have individual meters to measure the family's consumption if they are to be responsible for paying certain utilities, such as gas, water and electricity. The owner will be responsible for paying utilities for units with centralized meters.

### 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 may 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);
- 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.)

#### Water Heater:

Water heaters must have a temperature-pressure relief valve and discharge line (directed towards the floor or outside of the living area) as a safeguard against buildup of steam if the water heater malfunctions. Discharge pipes must be made of rigid pipe material (not garden hose or thin plastic pipe). Water heaters shall be anchored, braced or strapped to resist horizontal displacement due to earthquake motion. Strapping shall be at points within the upper one-third and lower one-third of the appliance's vertical dimensions. At the lower point, the strapping shall maintain a minimum distance of 4 inches above the controls.

#### 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.

Tenant Preference Items:

HUD requires the Authority to enforce minimum HQS but also requires that certain judgment about acceptability be left to the family.

**10-I.N. EMERGENCY REPAIR ITEMS [24 CFR 982.404]**

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 within twenty-four (24) hours of notification.

The following items are considered of an emergency nature and must be corrected by the owner or tenant (whoever is responsible) within twenty-four (24) hours of notice by the Authority:

- Any condition that jeopardizes the security of the unit;
- Major plumbing leaks or flooding, waterlogged ceiling or floor in imminent danger of falling;
- Natural gas leak or fumes;
- Electrical problem which could result in shock or fire;
- Absence of a working heating system when outside temperature is below 68 degrees Fahrenheit on the day of inspection. If there is a weather forecast predicating temperatures to be below 68 degrees Fahrenheit at any point within 48 hours of the actual time of inspection, the absence of a working heating system will be addressed immediately as a health and safety issue on a case-by-case basis;
- Utilities not in service, including no running hot water;
- Broken glass where someone could be injured;

- Conditions that present imminent possibility of injury;
- Obstacles that prevent safe entrance or exit from the unit;
- Absence of any functioning toilet in the unit;
- Inoperable smoke detector;
- Inoperable carbon monoxide detector;
- Window bars in bedrooms with no release mechanism;
- Combustible materials near the gas water heater or gas furnace.

The Authority may give a short extension (not more than 72 additional hours) whenever the responsible party cannot be notified or it is impossible to correct the repair within the twenty- four (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, make the repair, proper authorities will be notified by the Authority.

If the emergency repair item(s) are not corrected in the time period required by the Authority and the owner is responsible, the HAP will be abated and the HAP Contract will be terminated.

If the emergency repair item(s) are not corrected in the time period required by the Authority, and it is an HQS breach which is a family obligation, the Authority will terminate the assistance to the family.

## **10-I.O. ADDITIONAL LOCAL REQUIREMENTS**

The Authority may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards

Thermal Environment

The Authority must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

Authority Policy

The heating system must be capable of maintaining an interior temperature of 50degrees Fahrenheit between October 1 and May 1.

**10-I.P. LIFE-THREATENING CONDITIONS** [24 CFR 982.404(a)]

HUD requires the Authority to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within 24 hours of Authority notification.

Emergency items that are identified through an inspection or verified by a public agency which endanger the family’s health or safety must be corrected within twenty-four (24) hours of notification.

The following items are considered of an emergency nature and must be corrected by the responsible party within twenty-four (24) hours of notice by the Authority.

**10-I.Q. HUD DEFINITION OF NON-LIFE-THREATENING AND LIFE-THREATENING CONDITIONS**

For the purposes of implementing § 8(o)(8)(A)(ii), HUD is defining a non-life-threatening condition as any condition that would fail to meet the housing quality standards under 24 CFR 982.401 and is not a life-threatening condition.

Further, for the purposes of this implementation notice, HUD is defining life-threatening conditions as:

Gas (natural or liquid petroleum) leak or fumes:

A life-threatening condition under this standard is one of the following:

- A fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking;
- A strong gas odor detected with potential for explosion or fire, or that results in health risk if inhaled;

Electrical hazards that could result in shock or fire:

A life-threatening condition under this standard is one of the following:

- A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed;
- A light fixture is hanging by its wires;
- A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day to day use of the unit;
- A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed;
- A receptacle (outlet) or switch has a missing or damaged cover plate and electrical connections or wires are exposed;
- An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses:
- A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections;
- Any nicks, abrasions, or fraying of the insulation that expose conducting wire;
- Exposed bare wires or electrical connections;
- Any condition that results in openings in electrical panels or electrical control device enclosures;

- Water leaking or ponding near any electrical device; or
- Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition;

Inoperable or missing smoke detector and/or carbon monoxide detector

A life-threatening condition under this standard is one of the following:

- The smoke detector is missing; or
- The smoke detector does not function as it should.

Interior air quality:

A life-threatening condition under this standard is one of the following:

- The carbon monoxide detector is missing; or
- The carbon monoxide detector does not function as it should.

Gas/oil fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney or venting:

A life- threatening condition under this standard is one of the following:

- The chimney or venting system on a fuel fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gases;
- A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside;
- A fuel fired space heater is not properly vented or lacks available combustion air;
- A non-vented space heater is present;
- Safety devices on a fuel fired space heater are missing or damaged;

- The chimney or venting system on a fuel fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged which may cause improper or dangerous venting of gases;

Lack of alternative means of exit in case of fire or blocked egress:

A life-threatening condition under this standard is one of the following:

- Any of the components that affect the function of the fire escape are missing or damaged;
- Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency; or
- The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency;

Other interior hazards:

A life-threatening condition under this standard is a fire extinguisher (where required) that is missing, damaged, discharged, overcharged, or expired:

Deteriorated paint, as defined by 24 CFR 35.110, in a unit built before 1978 that is to be occupied by a family with a child under 6 years of age. This is a life-threatening condition only for the purpose of a condition that would prevent a family from moving into the unit. All lead hazard reduction requirements in 24 CFR part 35, including the timeline for lead hazard reduction procedures;

- Other condition subsequently identified by HUD as life threatening in a notice published in the Federal Register.

HUD will notify the Authority if such changes are made.

- Any other condition identified by the administering Authority as life-threatening in the Authority's administrative plan prior to this notice taking effect.

Under NSPIRE (effective October 1, 2023, the following changes are in effect:

Implementing the NLT Provision:

The NLT provision allows an AUTHORITY to approve the assisted tenancy and begin paying HAP on a unit that fails to meet the HQS, provided the deficiencies are not life-threatening.

This provision is optional for Authority's and may be applied to all or a portion of the AUTHORITY's tenant-based and project-based portfolio.

Authority Policy:

The Authority will determine when the NLT provision may apply to the tenant-based and the project-based portfolio.

Non-Life-Threatening (NLT) Conditions:

Adoption of the NLT provision require the Authority to use HUD's definition of NLT conditions in its HCV administrative plan.

An NLT condition is defined as any condition that would fail to meet the housing quality standards under 24 CFR 982.401 and is not a life-threatening (LT) condition as defined by HUD.

HUD's definition of LT conditions includes specific conditions under 10 categories:

- Gas (natural or liquid petroleum) leak or fumes;
- Electrical hazards that could result in shock or fire;
- Inoperable or missing smoke detector;
- Interior air quality (inoperable or missing carbon monoxide detector, where required);
- Gas/oil fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney or venting;

- Lack of alternative means of exit in case of fire or blocked egress;
- Other interior hazards (missing or damaged fire extinguisher, where required);
- Deteriorated paint surfaces in a unit built before 1978 and to be occupied by a family with a child under 6 years of age;
- Any other condition subsequently identified by HUD as life-threatening in a notice published in the Federal Register;
- Any other condition identified by the administering AUTHORITY as life-threatening in the AUTHORITY's administrative plan prior to April 18, 2017 (the effective date of the January 18, 2017, implementation notice).

**10-I.Q. VIOLATION OF HQS SPACE STANDARDS [24 CFR 982.401]**

A dwelling unit must:

- Provide adequate space and security for the family;
- Have at least one bedroom or living/sleeping room for each two persons;
- A unit that does not meet these HQS space standards is defined as *overcrowded*;
- A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space]. A bedroom or living/sleeping room must have at least:
  - One window
- Two electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets);

- If the Authority determines that a unit is overcrowded because of an increase in family size or a change in family composition, the Authority must issue the family a new voucher, and the family and Authority must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, the Authority must terminate the HAP contract in accordance with its terms.

## **10-I.P. INSPECTION RESULTS AND REINSPECTIONS FOR UNITS UNDER HAP CONTRACT**

### Notification of Corrective Actions:

The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, the Authority will determine (a) whether or not the failure is a life- threatening condition and (b) whether the family or owner is responsible.

### Authority Policy:

When life-threatening conditions are identified, the Authority will immediately notify both parties by telephone, fax or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within 24 hours of the Authority's notice.

When failures that are not life-threatening are identified, the Authority will send the owner and the family a written notification of the inspection results within 5 business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction.

The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within 24 hours, and non-life-threatening conditions are not corrected within the specified time frame (or any Authority approved extension), the owner's HAP will be abated in accordance with Authority Policy.

Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any Authority-approved extension, if applicable) the family's assistance be terminated

#### Extensions:

For conditions that are life-threatening, the Authority cannot grant an extension to the 24-hour corrective action period. For conditions that are not life-threatening, the Authority may grant an exception to the required time frames for correcting the violation, if the Authority determines that an extension is appropriate.

#### Authority Policy:

Extensions will be granted in cases where the Authority has determined that the owner has made a good faith effort to correct the deficiencies and is unable to do so for reasons beyond the owner's control such as:

- There is an unavoidable delay in completing repairs due to difficulties in obtaining parts contracting for services;
- The repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the funds;
- The repairs must be delayed due to climate conditions;
- A reasonable accommodation is needed because the family includes a family member with disability;
- Other extenuating circumstances may be considered by the Authority on a case by case basis.

The extension will be made for a period of time not to exceed ninety (90) days. At the end of that time, the Authority will review additional requests to extend, if the work is not completed or substantially completed, the Authority will begin abatement.

The Authority will conduct a reinspection immediately following the end of the corrective period for both non-life- and life-threatening violations.

At the Authority's discretion, when sufficient evidence supports that the unit has met previous yearly requirements set forth by the Authority, an Owner may be allowed to self-certify to the repairs of non-life-threatening violations that they are responsible for. If the Owner had an abatement of an assisted unit within the last twelve (12) months, the Authority will deny such requests or approvals.

If permitted by the Authority, the executed self-certification form must be completed and received by the Authority within 30 days of failed inspection date.

Failure to submit the fully executed self-certification form will result in abatement of the HAP Payment and require an in-person inspection to be conducted.

The Authority will send the owner notice of abatement. If the HAP payment is abated, the owner will not be eligible for a self-certification for a minimum of 12-months and the Authority will reinspect the unit for HQS compliance in order to lift any abatement.

**10-I.Q. SPECIAL REQUIREMENTS FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL [24 CFR 35.1225]**

If the Authority is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health department or medical health care provider, that a child of less than 6 years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, the Authority must complete an environmental investigation of the dwelling unit within 15 calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be

completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

Within 30 days after receiving the environmental investigation report from the Authority, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations [24 CFR 35.1325 and 35.1330]. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and the Authority will take action in accordance with Section 8-II.G. Authority reporting requirements, and data collection and record keeping responsibilities related to children with an elevated blood lead level are discussed in Chapter 16.

#### **10-I.P. OWNER AND FAMILY RESPONSIBILITIES [24 CFR 982.404]**

##### Family Responsibilities:

The family is responsible for correcting the following HQS deficiencies:

- Tenant-paid utilities not in service;
- Failure to provide or maintain appliances owned by the family;
- Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" are defined as items which could not be charged against the tenant's security deposit under state law or court practice.

##### Owner Responsibilities:

The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (e.g., vermin infestation). However, if the family's actions

constitute a serious or repeated lease violation the owner may take legal action to evict the family.

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 HQS, and the owner is responsible for completing the necessary repair(s) in the time period specified by the Authority, the HAP to the owner will be abated.

Enforcing Owner Compliance:

If the owner fails to maintain the dwelling unit in accordance with HQS, the Authority must take prompt and vigorous action to enforce the owner obligations.

HAP Abatement:

If an owner fails to correct HQS deficiencies by the time specified by the Authority, HUD requires the Authority to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension) [24 CFR 985.3(f)]. No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

Authority Policy:

The Authority will make all HAP abatements effective the first of the month following the expiration of the Authority specified correction period (including any extension).

The Authority will inspect abated units within 5 business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

During any abatement period the family continues to be responsible for

their share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

HAP Contract Termination:

The Authority must decide how long any abatement period will continue before the HAP contract will be terminated. The Authority should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time and must give the owner reasonable notice of the termination. The Authority will issue a voucher to permit the family to move to another unit as described.

Authority Policy:

The maximum length of time that HAP may be abated is 60 days. The tenant will be issued a voucher after 30 days of HAP abatement, unless the tenant requests to move sooner. However, if the owner completes corrections and notifies the Authority before the termination date of the HAP contract, the Authority may rescind the termination notice if (a) the family still resides in the unit and wishes to remain in the unit and (b) the unit passes inspection.

Reasonable notice of HAP contract termination by the Authority is 30 days.

**10-I.Q. LEAD-BASED PAINT AND HQS [24 CFR Part 35]**

Childhood lead poisoning has serious negative consequences on childhood growth and development. The U.S. Centers for Disease Control and Prevention (CDC) has consistently affirmed that deteriorated lead-based paint and lead-contaminated dust are the most hazardous sources of lead exposure in children. Lead-based paint can be found in homes built before 1978, with an increased prevalence in very old homes with original painted windows, doors, and trim (Jacobs et al., 2002; Cox et al., 2015). In 2012, the CDC lowered its reference level for lead in the blood of children under age 6 to 5 micrograms of lead per deciliter of blood, and provided guidance for health departments and medical professionals at [www.cdc.gov/nceh/lead/acclpp/cdc\\_response\\_lead\\_exposure\\_recs.pdf](http://www.cdc.gov/nceh/lead/acclpp/cdc_response_lead_exposure_recs.pdf).

On January 13, 2017, HUD amended the LSHR to align it with CDC's updated guidance.

Consistent with CDC's guidance, HUD is now using the reference level of 5 micrograms per deciliter to identify children with an EBLL. This new level is the blood lead level of the highest 2.5 percent of U.S. children ages 1 to 5 years. CDC may revise this level in the future, and if so, HUD will update its EBLL as used under the LSHR, via the notice and comment process, as provided by the definition of EBLL in the amendment (24 CFR 35.110).

However, if a state or local government establishes more protective standards in response to lead in children's blood, LSHR's section 35.150 directs PHAs to follow those standards

The Lead-Based Paint Poisoning Prevention Act as amended (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 and PIH Notice 2017-18 requirements apply to the housing choice voucher program and project-based voucher program.

## **10-1. R. KEY DEFINITIONS:**

### Assisted Units:

Lead Safe Housing Rule covers federally-assisted and federally-owned "target" housing, which includes units assisted under Sections 8 and 9 of the United States Housing Act of 1937, as amended.

### Designated Party:

Housing agency or the property owner, as indicated in the applicable section, is responsible for complying with applicable requirements.

### Elevated Blood-Lead Level (EBLL):

A confirmed concentration of lead in whole blood of a child under age 6 equal to or greater than the concentration in the most recent guidance published by the U.S. Department of Health and Human Services (HHS) on recommending that an environmental intervention be conducted.

A confirmed concentration is one that is measured by a venous (from a vein) blood draw, and not a finger prick/quick capillary screening test.

### Environmental Intervention Blood Lead Level (EIBLL):

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.

Environmental Investigation:

A risk assessment with additional questions for the family regarding other sources of lead exposure (e.g., water, pottery, daycare settings), and testing of other potential sources of lead exposure.

Expected to Reside:

Knowledge that a child will reside in a 0-bedroom dwelling unit or in a dwelling unit reserved or designated for the elderly and/or persons with disabilities. If a resident woman is known to be pregnant, there is actual knowledge that child will reside in the dwelling unit.

Index Unit:

Unit where a child with an elevated blood lead level resides.

Multi-unit Property:

Residential property containing two or more dwelling units. For the purposes of the LSHR, all buildings with assisted units or servicing those buildings (e.g., garages, toolsheds, etc.) associated with the property are covered by the requirements.

Other Covered Units:

Federally-assisted where a child under age 6 resides or is expected to reside in a multiunit property that has an index unit. The child's age is considered as of the date the Environmental Investigating in the index unit and associated common areas is completed.

Target Housing:

Any housing constructed prior to 1978, except housing for the elderly or persons with disabilities or any 0-bedroom dwelling (unless a child of less than 6 years of age resides or is expected to reside in such housing). In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, HUD may designate an earlier date.

Summary of Changes and Requirements:

The LSHR uses the approach of having a "designated party" responsible for complying with its requirements under a particular assistance program. Under some subparts of the LSHR, just the property owner is responsible, under some subparts, just the Authority, and under other subparts, the owner is responsible for certain activities, and the Authority, for others.

Specifically:

- For the PBV project-based assistance program, the owner is the designated party and is responsible for all the activities regarding EBLL response;
- For HCV tenant-based rental assistance program, while the Authority is the designated party, the LSHR provides that the owner is responsible for certain EBLL response activities and the Authority other EBLL response activities.;
- The update to the LSHR revised the type of evaluation that must be performed for the housing unit of a child with an EBLL, and added risk assessment requirements covering certain other units, and new reporting requirements. Under the new regulations, the evaluation for the child's unit must be an environmental investigation;
- For Housing Choice Voucher (HCV) units, when a child under 6 is identified with an EBLL, the Authority or the owner, as described below, must take certain steps.  
For the HCV program, the regulations identify the Authority as the designated party for ensuring compliance with all the regulations. This includes the same steps as for public housing, except that the owner is responsible for some of the steps, and the Authority, other steps. In addition, for several steps, as described below, the Authority may wish to collaborate with the owner to expedite implementation.

The Owner is responsible for:

- Initial notification of a confirmed case to HUD:  
Notifying the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes of the case – that is, the child's address – within 5 business days. The Authority may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to be notified of the case by the owner and to forward the notification to the two HUD offices.
- Initial notification of the public health department, when necessary:  
When the owner is notified of the case by any medical health care professional other than the public health department, the owner

shall notify the public health department of the name and address of the child within 5 business days. The Authority may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to inform the public health department.

- Verification of the case, when necessary:  
When the owner receives information from a person who is not a medical health care provider that a case may have occurred, the owner should immediately convey the information to the Authority so the Authority may notify the public health department, if the Authority has indicated, or indicates at this time, that it wishes to collaborate with the owner on implementation of the rule, as described below.
- Control of lead-based paint hazards:  
Completing the reduction of lead-based paint hazards in the index unit and common areas servicing that unit that were identified by the environmental investigation conducted by the Authority within 30 calendar days, using a certified lead-based paint abatement firm or certified lead renovation firm. Work shall include occupant protection, and clearance of the unit and common areas servicing that unit by an independent certified risk assessor or a trained dust sampling technician working under the risk assessor in accordance with section 35.1340.
- Notification to other residents:  
As already required by the LSHR, in a multiunit property, the owner must notify all residents of lead evaluation and hazard control activities.
- Ongoing maintenance:  
Maintaining covered housing without deteriorated paint if there is child under 6 in the family in accordance with sections 35.1220 and 35.1355(a).

The Authority is responsible for:

- Verification of the case, when notification is not from a medical health care provider.

The Authority may wish to collaborate with the owner on this verification of an EBLL case, such as by agreeing with the owner to receive the information about the possible case. The Authority shall immediately verify the information with the public health department or other medical health care provider.

- Environmental Investigation:  
Conducting an environmental investigation of the child's unit and the common areas servicing that unit in accordance with Chapter 16 of the HUD *Guidelines*, as described in section 6 below. If lead-based paint hazards are found in the child's unit (the index unit) in a multiunit property, see section 9 below regarding risk assessments to be conducted in other covered units with a child under age 6 and the common areas servicing those units.
- Monitoring of owner's compliance with LSHR:  
Monitoring the owner's compliance with the LSHR in accordance with the Housing Assistance Payments (HAP) contract between the PHA and the owner. The Authority can perform oversight of this in conjunction with periodic Housing Quality Standards (HQS) inspections, but not at a frequency less than annually if there was deteriorated paint or known lead-based paint hazards identified in the child's unit or common areas servicing that unit. This includes such actions as (see above) monitoring the owner's:
  - Notifying HUD of a confirmed case:
  - Notifying the public health department when any other medical health care professional notified the owner of the case;
  - Verifying the case when the owner receives information from a person who is not a medical health care provider that a case may have occurred; Ensuring that any required lead hazard control (including passing clearance) is complete; Ensuring that residents of other units in a multiunit property were notified of lead evaluation and hazard control activities; and Ensuring that ongoing maintenance of paint is conducted in accordance with sections 35.1220 and 35.1355(a).Control: Ensuring the owner completes and clears the control of lead-based paint hazards identified in the Environmental Investigation of the index unit and the common areas servicing that unit. If lead-based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and

the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards as described in below.

The Authority may wish to collaborate with the owner on the response, including providing the names of qualified and certified lead hazard control contractors, providing for the clearance examination, and ensuring notification to other residents in a multi-unit property.

The following table summarizes the responsibilities of the Authority and HCV rental property owners for compliance when a child in the HCV program is identified with an EBLL.

Responding to EBLLs, Environmental Investigations, and Lead Hazard Control Verification:

The first step an Authority or owner, as applicable, based on the type of assistance, or the Authority on behalf of the owner, if they have decided to collaborate in that way, must take when learning of a child with an EBLL from a parent, guardian, or other person or entity that is not a medical health care provider is to verify the results, and determine whether it is a confirmed EBLL. In accordance with Chapter 16 of the HUD *Guidelines*, a confirmed EBLL is one measured through a venous (i.e., from a vein) blood draw, or two capillary blood specimens, drawn within 12 weeks of each other, both with elevated lead concentration. If the parent or guardian suspects that a child under 6 has an EBLL based on a single finger print, they should see a medical health care provider to obtain confirmation.

PHAs and owners can verify the report with the local health department or the child's medical health care provider. For the HCV and PBV programs, the owner may wish to collaborate with the PHA to notify the PHA of the EBLL within 5 days so that the Authority can notify the public health department or the child's medical health care provider.

If the parent or guardian provides the PHA or owner, as applicable, with a written EBLL diagnosis from a medical healthcare professional, or the public health department notifies the PHA or owner, as applicable, of the case, no additional verification is needed.

If an EBLL has been reported but not verified, the Authority or owner shall make at least 2 attempts to verify the information with the medical health care provider or health department. If the PHA's verification

attempts fail, the Authority must inform the Field Office, which must attempt its own verification and/or inform OLHCHH, which will attempt the verification.

Once an EBLL has been verified, the PHA (for public housing) or owner (for PBV or HCV housing), as applicable, must notify their field office representative and OLHCHH within 5 business days. Notifications to OLHCHH must be by done via email to [LeadRegulations@hud.gov](mailto:LeadRegulations@hud.gov). The Authority may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to be notified of the results and then forwarding them to the Field Office and OLHCHH.

In the notification to their field office representative and OLHCHH, the Authority or owner, as applicable, must provide:

- Authority code and name, if the Authority is providing the notification, or Owner's name and address, if the owner is;
- Date of EBLL test result;
- Program (public housing, HCV, project-based vouchers);
- Unit address and, if the housing is in a multi-unit property or development, the development name; and
- Whether the Authority or owner has notified the public health department of the EBLL, or been notified by the health department, and the date of that notification.

Information emailed to HUD should not include the child's name or blood result. This information is considered personally identifiable information (PII), and is also confidential medical information which shall be maintained in accordance with the Authority policy for private medical information. If the Authority must transmit PII, it shall be done in a secure manner or in an encrypted email.

For more information on Privacy Protection Guidelines for PHAs, see PIH-2015-06.

### Investigation:

Next, the Authority or owner, as applicable, based on the type of assistance, or the Authority on behalf of the owner, if they have decided

to collaborate in that way must next ensure that a certified Lead-Based Paint Risk Assessor performs an “environmental investigation,” as defined above, in the child’s home and any common areas that service the unit.

The environmental investigation must be completed within 15 calendar days after verification or notification by a public health department or other medical health care provider. The Authority and owners can find certified lead risk assessment firms through either their state lead licensing agency or EPA’s website at [www.epa.gov/lead](http://www.epa.gov/lead).

In some cities and counties, the local public health department will evaluate the child’s home for lead-based paint hazards and other possible sources of lead exposure when a child is found with an EBLL. In these instances, the Authority or owner, as applicable, is not required to perform an additional environmental investigation, and can rely on the results of the health department’s evaluation.

After receiving the results of an environmental investigation (or an evaluation report from the health department), the Authority must notify their assigned HUD field office contact within 10 business days and the family of the results within 15 calendar days. The notifications must include the date the investigation was completed. If the evaluation was completed in a multiunit property, the Authority must also notify all residents that an evaluation was completed in accordance with section 35.125. This must be done by letter or notice delivered to each occupied dwelling unit affected by the evaluation, and not by central posting. The LSHR prohibits, for the protection of the privacy of the child and the child’s family or guardians, notice of environmental investigation being posted to any centrally located common area.

#### Required Lead-Based Paint Hazard Control:

If lead-based paint hazards are identified by the environmental investigation, the hazards must be addressed within 30 calendar days of receiving the results. This means performing any necessary lead-based paint hazard control work in the unit and common areas servicing the unit, and conducting a clearance examination on the unit and common areas when the work is complete. The work must be performed by a certified lead abatement or lead renovation firm, with the clearance examination performed by a certified risk assessor or clearance sampling technician.

The party that does the hazard control work and the clearance examination depends on the assistance program:

In the HCV and PBV programs, the owner is responsible for completing the hazard control work and conducting the clearance examination. The PHA may wish to collaborate with the owner on conducting the clearance examination.

The HUD field office must be notified of the lead hazard control work that was completed and the results of the clearance examination within 10 business days of passing clearance.

The party that does this notification depends on the assistance program.

In the HCV and PBV programs, the owner is responsible for notifying the HUD field office. The Authority may wish to collaborate with the owner on notifying the HUD field office. A

The table below summarizes the timelines for environmental investigations, lead hazard control work, clearance, and field office notifications when the Authority learns a child has an EBLL.

#### Index Units:

In a case where the child discovered to have an EBLL lives in a multiunit property, the child's home is considered the "index unit" under the new regulations. As described in section 9 below, if the index unit is found to contain lead-based paint hazards, additional evaluation is required for other assisted target housing units in the property where children under age 6 reside (known as other "covered units"). Note that a multi-unit property can include multiple buildings, and all buildings are covered if they meet the definition of target housing. This requirement already existed for public housing. Under this new rule, the requirement has been extended to the HCV and PBV programs.

#### Index Units Recently Tested:

An index unit may not need a full environmental investigation under the following scenarios:

- An environmental investigation was performed by the health department or another party between the time that the child's blood was last sampled and the date that the Authority,

designated party or owner (as applicable) was notified of the EBLL. If a risk assessment was performed, a certified risk assessment firm can be brought in to conduct the elements of an environmental investigation that go beyond the requirements of a risk assessment. o If a risk assessment was performed on the unit prior to the date that the child's blood was last sampled, the results of the risk assessment cannot be relied on, and a full environmental investigation must be performed.

- If the unit is scheduled for redevelopment or demolition, and the tenants are expected to be relocated within 45 calendar days. In this scenario, the Authority does not have to perform the environmental investigation if the family is relocated within 15 calendar days. In this scenario, the Authority may not know if the index unit contains lead-based paint hazards. Without test results, the Authority would have to presume all covered units contain lead-based paint hazards.
- Allowing the family to move from the index unit would not exempt any other covered unit in the property from the need for a risk assessment, unless those units are also scheduled for redevelopment or demolition and relocation is scheduled within 45 days.
- If the Authority chooses to perform an environmental investigation in the index unit anyway, and finds there are no lead-based paint hazards, additional testing or expedited relocation of families in covered units would not be necessary.

Other Covered Units of the Property (and Common Areas Servicing those Units):

If the environmental investigation indicates there are lead-based paint hazards in the index unit or common areas servicing that unit, any other assisted units in the property with a child under age 6 residing ("Other Covered Units") must receive a risk assessment, as must common areas servicing those units. This includes other assisted units designated as housing for the elderly and/or persons with disabilities where a child under age 6 resides or is expected to reside.

The party that conducts the risk assessments depends on the assistance program:

In the HCV and PBV programs, the owner is responsible for conducting the risk assessments. The Authority may wish to collaborate with the owner on conducting the risk assessments, as described above.

The risk assessments of the other covered units must be conducted within 30 calendar days of receiving the results of the environmental investigation for a property with 20 other covered units or fewer, and within 60 calendar days for a property with more than 20 other covered units.

While an Authority or owner may, for its own strategic reasons, choose to conduct risk assessments on all the other assisted dwelling units with a child under age 6 (or even all the other assisted dwelling units or all the other dwelling units), random sampling of other covered dwelling units to be assessed is permissible in properties with more than 20 covered dwelling units for pre-1960 properties, and more than 10 covered dwelling units for 1960-1977 properties. HUD's sampling protocol can be found in Table 7.3 of the *Guidelines*, on page 7-38. For example, for a 1925 multiunit property in which there are 47 other covered units (with certain characteristics identified in the table) shows that at least 31 units are to be sampled randomly.

If the evaluation was completed in a multiunit property, all assisted residents must be notified that an evaluation was completed. The party that conducts the resident notification depends on the assistance program:

- In the HCV and PBV programs, the owner is responsible for notifying the assisted residents. The Authority may wish to collaborate with the owner on notifying the assisted residents, as described above.

All lead-based paint hazards identified by the risk assessments must be controlled. As under the original LSHR, if a random sampling of units and/or common areas is used in the risk assessment, if lead-based paint hazards were found in that sample, all units and/or common areas represented by the random sampling must have corresponding building components that have lead-based paint hazards in sampled and un-sampled units controlled, because the components in un-sampled units are presumed to have lead-based paint hazards.

The table below summarizes the timelines for risk assessments, lead hazard work, and clearance for other covered dwelling units depending on the number of units in the property.

#### Exemptions for Other Covered Units:

A covered dwelling unit *is* exempt from needing a risk assessment under the following scenarios:

- The property has been certified by a State- or EPA-certified lead inspector as lead-based paint free or all lead-based paint has been identified and removed through abatement, and clearance has been achieved. Lead-based paint free means that the housing has been found to be lead-based paint free by a State- or EPA-certified lead inspector in accordance with Chapter 7 of the Guidelines. This exemption would not be applicable to units that have undergone lead abatement through enclosure or encapsulation, because they still contain lead-based paint behind the enclosure or encapsulant.
- The dwelling unit is scheduled for demolition. While units scheduled for redevelopment are generally not exempt, language in the preamble to the Final Rule permits exemption of a dwelling unit for redevelopment where start of construction and completion of tenant relocation is to occur within 45 calendar days (i.e., the sum of the 15-day period for conducting the environmental investigation and the 30-day period for conducting lead hazard control in the unit). In that scenario, the dwelling unit does not need a risk assessment; however, the family must be relocated out of the unit within 15 calendar days.

A covered dwelling unit *may* be exempted from needing a risk assessment if one was recently performed and hazards were already controlled.

#### Specifically:

- The Authority or owner conducted a risk assessment of the covered dwelling unit in question and the common areas servicing that unit, and any necessary interim controls on identified lead-based paint hazards were performed, including passing clearance. The risk assessment and controls must have

been performed between the date the child's blood was last sampled and the date the owner received the notification of the elevated blood lead level;

- The Authority or owner has documentation of compliance with evaluation, notification, lead disclosure, ongoing lead-based paint maintenance, and lead-based paint management requirements under this part throughout the 12 months preceding the date the owner received the environmental investigation report; and Certified documentation is provided to the HUD field office to this effect, including copies of the risk assessment and the results, and a copy of the clearance exam.

The party that provides this documentation depends on the assistance program:

- In the HCV and PBV programs, the owner is responsible for providing the documentation to the HUD field office. The Authority may wish to collaborate with the owner on providing the documentation.

#### Monitoring and Enforcement:

HUD may request documentation of compliance with the LSHR at any time, for the HCV, PBV, and public housing programs.

#### HCV and PBV Program:

The Authority is responsible for ensuring compliance with the regulations, and, for the HCV programs, funding initial lead evaluations, but the HCV or PBV owner has certain requirements that the Authority must oversee in accordance with their housing assistance payment contract with the owner, including:

- The owner is responsible for promptly notifying the HUD field office and the Office of Lead Hazard Control and Healthy Homes of EBLL cases, although the Authority may wish to collaborate with the owner on this notification.
- The owner is responsible for performing the lead hazard control work, and for incorporating ongoing lead-based paint maintenance activities into regular building operations

including conducting a visual assessment for deteriorated paint, dust-lead hazards, bare soil, and the failure of any hazard reduction measures at unit turnover and every twelve months.

The Authority can assist owners in finding certified contractors, or in obtaining training and submitting the documentation to become certified to perform lead hazard control work themselves. (See the EPA lead website, [www.epa.gov/lead](http://www.epa.gov/lead)). The Authority can also opt to have a certified risk assessor on staff with the Authority becoming a certified risk assessment firm, where required, or available via contract (the Authority does not have to become a certified risk assessment firm). The Authority must also ensure units that had lead-based paint hazards identified receive annual and turnover visual assessments to ensure that the interim controls have not failed and that there is no new deteriorated paint. The party that conducts the visual assessments depends on the assistance program:

- In the HCV and PBV programs, the owner is responsible for conducting the visual assessments. The Authority may wish to collaborate with the owner on conducting the visual assessment.

If the required evaluation and lead hazard control work is not completed for the index unit or other covered units within the established timeframes, the dwelling unit(s) shall be considered out of compliance with HQS. Enforcement may include suspension, reduction, or termination of housing assistance payments (HAP). If the owner does not meet the requirements after enforcement, the unit is not in compliance with HQS, and the Authority must terminate the HAP contract and assist the family in finding a unit that will meet HQS and is lead-safe.

A lead safe unit is one that is either built after 1977, or one built before 1978 that has had a risk assessment, control of any lead-based paint hazards identified, and met clearance. The Authority should follow the existing regulations at section 982.404 for HQS enforcement of the HCV and PBV programs before the family moves in. (If the owner or Authority, as applicable, is unable to comply with the deadline for lead hazard control work due to weather conditions, the Authority can allow additional time in accordance with section 35.115(a) (12).)

See the Non-Reporting segment below for guidance on instances when the owner has not reported an EBLL case to HUD or the public health department, either directly or through the PHA, or when the Authority, after being notified of an EBLL case by the owner, has not reported the case to HUD or the public health department, when required.

#### Non-Reporting in HCV, PBV, and Public Housing Programs:

If a person becomes aware of an EBLL case where the owner or Authority did not report the EBLL to HUD or the public health department when required, the person should report the case to the OLHCHH at [LeadRegulations@hud.gov](mailto:LeadRegulations@hud.gov), and to the Office of the Inspector General via the OIG Hotline at [www.hudoig.gov/hotline](http://www.hudoig.gov/hotline). Under the Whistleblower Protection Act, it is illegal for HUD, PHAs, HCV property owners, and PBV property owners to retaliate against their employees and personal service contractors for disclosing a case to the OIG. See 5 U.S.C. § 2302; 41 U.S.C. § 4712.

#### Preparing for Full Compliance:

Preparations for PHAs managing HCV housing should include:

- Ensuring that HQS inspectors have completed training in visual assessment for deteriorated paint posted at [www.hud.gov/offices/lead/training/visualassessment/h00101.htm](http://www.hud.gov/offices/lead/training/visualassessment/h00101.htm) and are performing this enhanced visual inspection at initial and periodic inspections in target housing dwelling units when a family has a child under age six. (HQS inspectors who are certified lead risk assessors do not need the visual assessment training above; the subject is covered in their risk assessment course.)
- Determining whether lead evaluations will be performed by trained, certified staff or through a contract. If staff are to be certified, the PHA's obtaining certification as a firm in the discipline(s) in which the staff will be certified.
- Confirming a current contact person at the local or state health department for communication and data sharing.
- Informing residents of target housing of the risks of lead-based paint and encouraging them to have young children tested for lead in their blood. Notify residents of how to promptly report

EBLLs to the PHA. This may include written notice in the leasing package, and/or at the next regular reexamination.

- Informing and engaging HCV owners about lead safety and their obligations under the LSHR, including the Lead Disclosure Rule. Note that for project-based vouchers (PBV) the rules regarding lead-based paint are different from those applying to tenant-based vouchers. PHAs with project-based vouchers in their HCV programs should ensure that those PBV dwelling units with vouchers for a property valued at over \$5,000 per unit per year have already received a risk assessment and hazard control as outlined in 24 CFR 35, Subpart H, 35.700 et seq.; if the PBV vouchers are for no more than \$5,000 per unit per year, the units should have already received a visual assessment for deteriorated paint and paint stabilization as outlined in 24 CFR 35, Subpart H.

#### Data Sharing with Public Health Departments:

At least quarterly, the Authority must provide an updated list of their HCV property target housing addresses to the health department so that the health department may evaluate whether they have information about incidences of EBLL cases in assisted housing. If the health department does not want, or is unable, to receive this data, the Authority should document this for HUD compliance reviews. \ The Authority should also attempt quarterly to obtain the names and addresses of children under age 6 with an EBLL that live in their owned or managed housing from the health department. If a match occurs, the Authority shall comply with all requirements of the LSHR and this guidance.

If a health department agrees to share EBLL information, the Authority must ensure that this information is protected and maintained as confidential, and is used only for the public health protection of children and their families from lead exposure.

#### Lead Based Requirements for the Project-Based Voucher (PBV) Program:

PBV units, while funded through the Tenant-Based Rental Assistance/HCV Program appropriations, are regulated under the Lead Safe Housing Rule (LSHR) as a project-based assistance under 24 CFR Part 35, Subpart H. Under Subpart H, owners of target housing properties receiving more than \$5,000 annually per unit in project-

based assistance are required to ensure that target housing receives a lead risk assessment by a certified risk assessor, regardless of whether there is a child under age 6 in residence, and that occupants are notified of the results of the risk assessment.

Owners must ensure that lead-based paint hazards identified by the risk assessment receive interim controls by a certified renovation or abatement firm, that clearance by a certified risk assessor is passed before re-occupancy occurs, and that assisted occupants are notified of the results of the hazard reduction activity. Owners must monitor and maintain any remaining lead-based paint and the hazard controls, with annual visual assessments and a reevaluation with dust testing every two years by a certified risk assessor.

Owners in the PBV program are also responsible for complying with notification and response for a child with an EBLL under Section 35.730. Because the comprehensive requirements of Subpart H may not be broadly understood by all PHAs and owners participating in the PBV program, HUD plans to issue additional guidance to assist them in complying with the requirements.

For the PBV project-based assistance program, the owner is the designated party and is responsible for all the activities regarding EBLL response.

For project-based vouchers, when a child under 6 is identified with an EBLL, the owner must take the following steps. For several steps, as described below, the PHA may wish to collaborate with the owner to expedite implementation.

The owner is responsible for:

Initial notification of a confirmed case to HUD:

Notifying the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes of the case – that is, the child’s address – within 5 business days. The Authority may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to be notified of the case by the owner and to forward the notification to the two HUD offices.

Initial notification of a confirmed case to public health department, when necessary:

When the owner is notified of the case by any medical health care professional other than the public health department, the owner shall notify the public health department of the name and address of the child within 5 business days. The Authority may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to inform the public health department.

Verification of the case, when necessary:

When the owner receives information from a person who is not a medical health care provider that a case may have occurred, the owner shall immediately convey the information to the public health department, asking that department to verify the information to determine whether the child has an EBLL. The Authority may wish to collaborate with the owner on this verification process, such as by agreeing with the owner to receive the information, convey the information to the public health department and ask for that department's verification, and convey the result of the verification to the owner for further action if the case is confirmed or closing out the action if not.

Environmental Investigation:

Within 15 calendar days, conducting an environmental investigation of the child's unit and the common areas servicing that unit in accordance HUD *Guidelines*, as described in section 6 below. The Authority may wish to collaborate with the owner on this evaluation process, such as by agreeing with the owner to conduct the environmental investigation. If lead-based paint hazards are found in the child's unit (the index unit) in a multiunit property, see section 9 below regarding risk assessments to be conducted within 30 or 60 calendar days in other covered units with a child under age 6 and the common areas servicing those units depending on the number of units.

Control:

The owner must control (and clear) any lead-based paint hazards identified by the environmental investigation within 30 calendar days using a certified lead-based paint abatement firm or certified lead renovation firm, including having the unit and common area pass a post-work dust clearance exam in accordance with section 35.1340. If lead-based paint hazards are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age

6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards within 30 or 90 days depending on the number of units as described in section 9 below.

Notification to other residents:

As already required by the LSHR, in a multiunit property, the owner must notify all residents of lead evaluation and hazard control activities.

Follow-up notification:

The owner must notify the HUD Field Office of the results of the environmental investigation and then of the lead hazard control work within 10 business days of the deadline for each activity. The Authority may wish to collaborate with the owner on this notification process, such as by agreeing with the owner to be notified of the results and then forward them to the Field Office.

Ongoing lead-based paint maintenance:

As already required by the LSHR in sections 35.715(c) and 35.720(b), after the work passes clearance, the owner must ensure that the unit and common areas are maintained as lead-safe for continued occupancy, which includes no deteriorated paint or failed lead hazard control methods. The requirements for ongoing LBP maintenance are in section 35.1355(a).

Reevaluation if PBV exceeds \$5,000 per unit per year:

As already required by the LSHR in section 35.715(c), if the PBV is for more than \$5,000 per unit per year, the owner must generally conduct periodic reevaluations every two years, using a certified lead risk assessor, and respond to them. The reevaluations shall be for: deteriorated paint surfaces unless they are known not to be lead-based paint, deteriorated or failed interim controls of lead-based paint hazards or encapsulation or enclosure treatments, dust-lead hazards, and soil-lead hazards in newly-bare soil. Exceptions from the reevaluation requirement are in section 35.1355(b)(1) and (4); the requirements for responding to the reevaluations are in section 35.1355(c).

The Authority is responsible for:

Monitoring of owner's compliance with LSHR:

Monitoring the PBV owner's compliance with the LSHR in accordance with the Housing Assistance Payments (HAP) contract between the Authority and the owner. This includes such actions as (see above) monitoring the owner's compliance in:

- Notifying HUD of a confirmed case;
- Notifying the public health department when any other medical health care professional notified the owner of the case;
- Verifying the case when the owner receives information from a person who is not a medical health care provider that a case may have occurred;
- Ensuring that any required lead hazard control (including passing clearance) is complete;
- Ensuring that residents of other units in a multiunit property were notified of lead evaluation and hazard control activities; and
- Ensuring that ongoing maintenance of paint is conducted.

The PHA may wish to collaborate with the owner on this monitoring, such as in ways described above.

#### Housing Assistance Payments Contract monitoring:

For the owner to allow the resident family to return to full occupancy of their housing unit, the owner must notify the family of the completion of work and passing of clearance. Because the Authority will be monitoring the owner's compliance with the LSHR in accordance with the HAP contract between the PHA and the owner, the Authority may wish to collaborate with the owner on this monitoring process, such as by agreeing to have the owner inform the Authority that the lead hazard control (including passing clearance) is complete, and providing documentation.

#### Lead Hazard Control:

Ensuring the owner completes and clears the control of lead-based paint hazards identified in the Environmental Investigation of the index unit and the common area servicing that unit. If lead-based paint hazards

are found in the index unit in a multiunit property, and the risk assessments in other covered units with a child under age 6 and the common areas servicing those units identified lead-based paint hazards, control those lead-based paint hazards as described in section 9 below.

Ongoing monitoring:

Units with identified lead-based paint hazards must have annual re-examinations for deteriorated paint and/or failed hazard control. This can be done in conjunction with periodic HQS inspections, but not at a frequency less than annually if there was deteriorated paint or known lead-based paint hazards identified in the child's unit or common areas servicing that unit.

**CHAPTER 11**  
**OWNER RENTS, RENT REASONABLENESS,**  
**AND PAYMENT STANDARDS**  
**[24 CFR 982.503, 982.504, 982.505, 982.507]**

**OVERVIEW**

Except in the case of certain Low-Income Housing Tax Credit (LIHTC)- and HOME-assisted units, no HAP contract can be approved until the Authority has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

Rent Reasonableness Determinations HUD: issued a PIH Notice August 21, 2020 PIH 2020-19 Rent Reasonableness – Defining Assisted Units for the Housing Choice Voucher and Project-Based Voucher Programs.

In determining whether rents are reasonable, the Authority must always ensure that the rent to owner for a unit in which an HCV assisted or PBV assisted family will reside does not exceed the rent to owner for comparable unassisted units on the premises. By accepting each monthly housing assistance payment, the owner certifies that the contract rent is not more than the rent charged by the owner for comparable units in the premises.

## CHAPTER 11

### **11-I.A. AUTHORITY-OWNED UNITS [24 CFR 982.352(b)]**

In cases where an HCV family is receiving assistance in an Authority-owned unit, the Authority must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. An Authority-owned unit is defined as a unit that is owned by the Authority that administers the assistance under the consolidated Annual Contributions Contract (ACC) (including a unit owned by an entity substantially controlled by the Authority). The independent agency must communicate the results of the rent reasonableness determination to the family and the Authority. The independent agency must be approved by HUD, and may be the unit of general local government for the Authority jurisdiction (unless the Authority is itself the unit of general local government or an agency of such government)

### **11-I.B. WHEN RENT REASONABLENESS DETERMINATIONS ARE REQUIRED**

#### Owner-Initiated Rent Determinations:

The Authority must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment (rent increase).

#### Initial Intent to Lease Unit:

The owner and family must negotiate and agree on the amount of the initial contract rent for the unit. The initial rent must not exceed the families maximum approved rent burden.

In cases where the Authority owns the unit, if applicable, the Authority may require the determination or rent negotiations be conducted by an outside agent or designee to determine if the rent is reasonable and to assist the family with the negotiations.

### Initial Lease:

Prior to initial for occupancy the Authority must determine whether the proposed rent is reasonable before approving a unit for the family to lease. Once the rent is determined reasonable, the unit will be scheduled for an initial inspection to determine it meets HQS for occupancy and assistance by the Authority.

During the initial term of the lease, the owner must not change the any terms listed in in lease agreement such as who is responsible for utilities, appliances, and the owner must not adjust the rent amount. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family and approved by the Authority before an owner may implement an increase or decrease at the end of the lease term.

The unit must have a "PASS" inspection rating during the last scheduled inspection. Rent increases reflecting a "FAIL" inspection rating will delay the request until the unit passes housing quality standards.

### Housing Authority Policy

**Housing Choice Voucher (HCV):** The Authority requires all HCV program units under HAP contract be inspected at least once annually (and may, at its discretion with HUD approval, consider or adopt a biennial inspection policy for units that meet HUD's biennial inspection criteria.

Units that reflect a "FAIL" status must pass a reinspection. The Authority will schedule the unit to be inspection at the earliest availability.

Units that reflect more than 16 months have passed since an inspection has been conducted will be scheduled for an annual HQS inspection at the earliest availability. The HQS must "PASS" the annual HQS inspection prior to consideration to approve any increase in rent.

## **Project-Base Voucher Program (PBV):**

PBV units are under a site-based PBV HAB contract and HUD does not require that all units listed in the contract be inspected annually.

During the family's initial term of the lease the Owner must not change the rent amount or utility responsibility as shown during the initial term of the lease in the family's lease contract.

The Authority must inspect all newly constructed units listed within the PBV-HAP contract prior to occupancy.

The Authority must inspect an existing contract unit prior to any new occupancy if the unit is listed in the a PBV-HAP contract prior to occupancy. Under a PBV HAP contract, HUD requires a random selection of 25% of the units per building to be inspected in accordance with the Authority inspection policy.

Rent increases submitted for PBV-HAP contracts may only be requested once annually and require that the Owner make the effective date the same as the Anniversary date of the PBV contract anniversary date. PBV sites that submit a request for rent increase that does not comply with the anniversary date requirement will not be approved.

When a PBV site submits a request for rent increase, the amount of the site's request must be comparable to units with like features and unit size,

All rent increase requests must be comparable and reasonable with private market area unit rents not receiving assistance.

Newly leased units where the move-in date occurred in the past twelve (12) months are ineligible. Owners may not change the terms of the lease during an initial term of any lease.

After the initial term expires, the amount, if approved, must be applied at the family's next annual recertification.

In the above scenario, after the first rent increase is was applied at the annual recertification effective date until the site-based Owner submits a request to increase rent on the next anniversary date of the Owner-Authority PBV HAP contract.

When reviewing a PBV-HAP contract unit at annual recertification, or when reviewing inspection information to approve a rent increase, that not all HCV-annual HQS unit inspection requirements apply to PBV annual inspection requirements and only applies to units who are continuously assisted.

### Authority Policy

The Authority will determine in a timely manner if the requested rent increase is reasonable. The Owner/Landlord will be notified in a timely manner when the requested amount is not reasonable and provide the Owner with a Rent Increase Disapproval letter and may use the following methods of communication to inform the family:

- Email; or
- US mail; and
- Telephone

The disapproval letter must provide the families maximum rent burden amount as determined by the Authority during the rent study to try and negotiate the acceptable amount with the Owner.

Rent increase requests that are approved and have been found reasonable will be processed in a timely manner on the notices effective date shown.

Rent increases must reflect an effective date as the first day of any month and the in accordance with HUD regulations and the Authority policy, must reflect a minimum of sixty (60)-days' notice to the family and a copy provided to the Authority.

### **11-I.C. Authority and Hud Initiated Rent Reasonableness Determinations**

HUD requires the Authority to make a determination of rent reasonableness (even if the owner has not requested a change) if there is a 10 percent decrease in the fair market rent that goes into effect at least 60 days before the contract anniversary date. HUD also may direct the Authority to decide at

any other time. The Authority may decide that a new determination of rent reasonableness is needed at any time.

### Authority Policy

In addition to the instances described above, the Authority will decide of rent reasonableness at any time after the initial occupancy period if:

(1) the Authority determines that the initial rent reasonableness determination was in error; or

(2) the Authority determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

- Unassisted units on the property: An owner who offers a rent concession for unassisted units at the property must also offer them to HCV/PBV participants (24 CFR 982.507 and 983.305). The Authority must use the actual amount of rent for such unassisted units (that is the rent with the concession) in determining the reasonable rent amount. (Example: an HCV family is looking to rent a unit in Property A. The rent to owner is generally \$800 month, but the owner offers a rent credit (a rent concession) of \$100 during the first two months of occupancy. During the initial lease term, the rent amount that the Authority must use for determining the reasonable rent is \$700 for two months (1400) and \$800 for the remaining ten months' at (\$8000) in a 12-mopnth period., per \$783 per month for 12 months;
- Units occupied by certain employees of the property management company: In some rental markets it is common practice for certain employees of the property management company (e.g., a resident manager) to reside in the property rent-free or at a significantly reduced rent as part of their employment compensation. Under such limited circumstances, the rent for these units does not represent the rent that is charged or would be charged for a comparable unassisted unit and the Authority must not take them into account in making rent reasonableness determination;
- Using recent rentals in multifamily properties: In the case of a family moving into a multifamily property, the Authority may choose to only

consider the most recent rentals in determining the rents that the owner is charging for comparable unassisted units. In some markets, new families routinely pay higher rents than longer time families in comparable units may be paying (often due to local rent stabilization programs or ordinances that limit rent increases for existing families);

- Rent Increases: In determining if subsequent rent increases result in rents that are reasonable for units occupied by families under voucher HAP contracts, the Authority must take into consideration any rent-setting policies by the owner for existing families. Any increases in rent over time for HCV/PBV-assisted families must be similar to increase charged to unassisted families who have lived in their units for approximately the same amount of time. In other words, rents for existing HCV/PBV-assisted families may not exceed the rents charged to unassisted families in comparable units who have been in a property for approximately the same amount of time.

#### Rent to Owner in the HCV Program:

The rent to owner is not only limited by rent reasonableness, the Authority must also demonstrate that the rent to owner is reasonable in comparison to rent for other similar unassisted units in the area.

Limitation on rent to owner at initial lease is the maximum allowable rent at the time a family initially receives tenant-based assistance and any new occupancy of a dwelling unit, whether it is a new admission or continued assistance (new move in), whether the tenant is an existing occupant or not. The family share may not exceed 40 percent of the family's monthly adjusted income.

When raising the rent, the owner must give at least a 60-day written notice to the tenant and provide the Authority a copy of the notice served to the tenant.

#### **11-I.D. Making Payments to Owners [24 CFR 982.451]**

The Authority will issue payments to landlords by direct deposit. The Authority requires landlords to enroll in Direct Deposit by Electronic Funds Transfer (EFT) as the primary method of payment. In the event an owner opts not to receive their payment by EFT, they or their designee must pick up the check in person at the Authority. Electronic payments will be disbursed on the first working day of the start of each month or at the next scheduled check disbursement. Manual checks that are not received will not be replaced until a

written request has been received from the payee. The Authority will not submit a stop payment on the check until 10 days have elapsed from the date the check was issued.

### Excess Payments

The total of rent paid by the tenant plus the HAP to the owner may not be more than the rent to owner. The owner must immediately return any excess payment to the Authority.

Owners who do not return excess payments will be subject to penalties as outlined in this Administrative Plan. The Authority will seek to recoup overpayment(s) made to the landlord.

### Late Payments to Owners

The Authority must make the HAP to the owner promptly and in accordance with the HAP contract.

The Authority will not pay a late fee to the owner for any HAP that is not received by the owner by the 5<sup>th</sup> business day of the month, unless late fees were imposed by any lender and proof is submitted by the owner. The Authority will not be obligated to pay any late payment penalty if it is determined that the late payment is due to factors beyond the Authority's control, such as a delay in the receipt of program funds from HUD. Any such late fee to be paid by the Authority will be equal to, but not greater than, the established amount of late fee charged to their tenant for late payment.

### Initial HAP Payment:

Payments to owners on all new contracts will be processed electronically within sixty (60) days of a passed HQS inspection, providing that all documents have been executed under program guidelines.

If HAP is not paid promptly when due, or within the first two calendar months (60 days) of the initial HAP contract term, the Authority shall pay the owner penalties if all of the following circumstances apply:

1. Such penalties are in accordance with generally accepted practices and law, as applicable in the local housing market, governing penalties for late payment of rent by a tenant;
2. It is the owner's practice to charge such penalties for assisted and unassisted tenants; and

3. The owner also charges such penalties against the tenant for late payment of family rent to owner.

The Authority will use administrative fee income or the administrative fee reserve as its only source for late payment penalty. The Authority will not use any program funds for the payment of late fee penalties to the owner.

### Factors to Consider

HUD requires the Authority to take into consideration the factors listed below when determining rent comparability. The Authority may use these factors to make upward or downward adjustments to the rents of comparable units when the units are not identical to the program assisted unit:

- Location and age;
- Unit size including the number of rooms and square footage of rooms;
- The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise);
- The quality of the units including the quality of the original construction, maintenance and improvements made;
- Amenities, services, and utilities included in the rent.

### Units that Must Not Be Used as Comparable

Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered as comparable units.

These include units assisted by HUD through any of the following programs:

- Section 8 Project-Based assistance;
- Section 236 and Section 221(d)(3);
- Below Market Interest Rate (BMIR) projects;
- HOME; or
- Community Development Block Grant (CDBG) program assisted units in which the rents are subsidized;
- Units subsidized through federal, state, or local tax credits;
- Units subsidized by the Department of Agriculture;
- Rural housing programs; and

- Units that are rent-controlled by local ordinance.

### Rents Charged for Other Units on the Premises

The Request for Tenancy Approval (HUD-52517) requires owners to provide information, in the form, about the rent charged for other unassisted comparable units on the premises, if the premises include more than 4 units.

By accepting the Authority payment each month, the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If asked to do so, the owner must give the Authority information regarding rents charged for other units on the premises.

### **11-I.E. RENT REASONABLENESS DETERMINATIONS [24 CFR982.507]**

The Authority 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 Authority must ensure that the rents paid for HCV assisted units do not exceed the rents for comparable units that are not assisted under a Federal, State, or local government program.

See Chapter 10 for additional guidelines to determining rent reasonableness.

The following are considered to be assisted units and will not be considered when determining rent reasonableness:

- Units where the rent and/or rent increases are controlled or restricted by law or court order;
- In cases of a property undergoing a Housing Conversion Action, units occupied by tenants on the date of the eligibility event who do not receive vouchers are considered assisted if the owner chooses to continue below market rents to those families by offering lower rents or other rent concessions to the impacted families.

The Authority will not approve a lease until it is determined that the initial rent to owner is a reasonable rent.

The Authority must also re-determine the reasonable rent prior to considering any increase in the rent to owner and/or if directed by HUD.

## Reasonableness Methodology

Information is gathered on rental units in the Authority's market area, and each unit is rated using the Authority's rent reasonableness system. The Authority 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. Each defined factor of the items listed above on the unit to be assisted will be compared, using a point adjustment system, to those factors of comparable unassisted units in the database.

The average will be adjusted up or down based on the dollar value of all HUD required comparable items in comparison with the total database.

## **11-I.F. PAYMENT STANDARDS [24 CFR 982.503]**

The payment standard sets the maximum subsidy payment a family can receive from the Authority each month. Payment standards are based on Fair Market Rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area. For most jurisdictions FMRs are set at the 40th percentile of rents in the market area.

The Authority must establish a payment standard schedule that establishes payment standard amounts for each FMR area within the Authority's jurisdiction, and for each unit size within each of the FMR areas. For each unit size, the Authority may establish a single payment standard amount for the whole FMR area or may set different payment standards for different parts of the FMR area. Unless HUD grants an exception, the Authority is required to establish a payment standard within a "basic range" established by HUD between 90 and 110 percent of the published FMR for each unit size.

## Updating Payment Standards [24 CFR 982.503(b)]

When HUD updates its FMRs, the Authority must update its payment standards if the standards are no longer within the basic range.

HUD may require the Authority to make further adjustments if it determines that rent burdens for assisted families in the Authority's jurisdiction are unacceptably high.

### Authority Policy

The Authority will review the appropriateness of the payment standards on an annual basis when the new FMR is published, and at other times as determined necessary.

The Authority will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

### Funding Availability

The Authority will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. The Authority will compare the number of families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

### Rent Burden of Participating Families

Rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than 30 percent of their monthly adjusted income as the family share. When 40 percent or more of families, for any given unit size, are paying more than 30 percent of adjusted monthly income as the family share, the Authority will consider increasing the payment standard. In evaluating rent burdens, the Authority will not include families renting a larger unit than their family unit size.

### Quality of Units Selected

The Authority will review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

## Changes in Rent to Owner

The Authority may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

## Unit Availability

The Authority will review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

## **11-I.G. APPLYING PAYMENT STANDARDS [24 CFR 982.505-982.503(b)]**

The Authority's schedule of payment standards is used to calculate housing assistance payments for HCV families.

This section covers the application of the Authority's payment standards.

*Payment standard* is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)."

The payment standard for a family is the lower of:

- the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under the Authority's subsidy standards; or
- the payment standard for the size of the dwelling unit rented by the family.

If the Authority has established an exception payment standard for a designated part of a zip code area or FMR area and a family's unit is located in the exception area, the Authority must use the appropriate payment standard for the exception area.

The Authority is required to pay a monthly housing assistance payment (HAP) for a family that is:

- The lower of (1) the payment standard for the family minus the family's TTP; or
- (2) the gross rent for the family's unit minus the TTP.

If during the term of the HAP contract for a family's unit, the owner lowers the rent, the Authority will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit.

#### Exception Payment Standards [982.503(c)]

The Authority must request HUD approval to establish payment standards that are higher than the basic range. At HUD's sole discretion, HUD may approve a payment standard amount that is higher than the basic range for a designated part of the FMR area. HUD may approve an exception payment standard amount (in accordance with program requirements) for all units, or for all units of a given size, leased by program families in the exception area. Any Authority with jurisdiction in the exception area may use the HUD-approved exception payment standard amount. The total population of all HUD-approved exception areas in an FMR area may not include more than 50 percent of the population of the FMR area.

#### Authority Policy

A family that requires a reasonable accommodation may request a higher payment standard at any time. The Authority may approve a payment standard up to 110% of the applicable FMR as a reasonable accommodation. The family must document the need for the exception.

In order to approve an exception, or request an exception (over 110%) the Authority must receive approval from HUD, and the Authority must determine that:

- There is a shortage of affordable units that would be appropriate for the family;
- The family's TTP would otherwise exceed 40 percent of adjusted monthly income; and
- The rent for the unit is reasonable.

### **11-I.H. ADJUSTMENTS TO PAYMENT STANDARDS [24 CFR 982.503]**

Payment standards may be adjusted, within HUD regulatory limitations, to increase HAP in order to keep the family's rents affordable. The Authority will not raise payment standards solely to make "high end" units available to voucher holders. The Authority may use some or all of the measures below in making its determination whether an adjustment should be made to the payment standards.

### **11-I.J. CHANGES IN PAYMENT STANDARDS AND UTILITY ALLOWANCES**

In order to calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the Authority's calculations.

Specific policies governing how subsidy standards, payment standards, and utility allowances are applied are discussed below.

#### **Payment Standards and Calculations [24 CFR 982.505]**

The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of unit, and the area in which the unit is located.

When the Authority changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

- If the Authority's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased;

- If the payment standard amount has *increased*, the increased payment standard will be applied at the *first annual* reexamination following the effective date of the increase in the payment standard;
- If the payment standard amount has *decreased*, during the term of a HAP contract, the Authority is not required to reduce the payment standard as the HAP contract remains in effect. At the family's *second annual* reexamination, the Authority may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard (See Chapter 6 for the Authority's policy on decreases in the payment standard);
- If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

### Rent to Owner Increase

Where the owner is requesting a change to the amount of the rent to owner, the owner must serve the tenant a proper sixty (60) day notice and provide a copy of the same notice to the Authority at the same time tenant is served. The effective date of the change must reflect at least 60 days before any such changes go into effect [24 CFR 982.308(g)(4)].

The Authority will agree to such an increase only if the amount of the rent to owner is considered:

- Reasonable according to the rent reasonableness standards;
- If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase amount, agree to keep rent at current amount, or may terminate the tenancy by serving a ninety (90) – Day Notice in accordance with the terms of the lease;
- Rent Increase requests received during the initial term of a Housing Assistance Payment (HAP) contract or the initial term of a lease will not be considered and will be rejected.

### Time to Locate Housing

The Authority will consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

### Decrease in the Payment Standard [24 CFR 982.505]

If an Authority changes its payment standard schedule, resulting in a lower payment standard amount during the term of a HAP contract, the Authority is not required to reduce the payment standard used to calculate subsidy for families under HAP contract as long as the HAP contract remains in effect.

If the Authority does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, the Authority may either reduce the payment standard to the current amount in effect on the Authority's payment standard schedule, or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. The Authority may also establish different policies for designated areas within their jurisdiction.

In any case, the Authority must provide the family with at least 12 months' notice that the payment standard is being reduced before the effective date of the change. The Authority's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

### Changes in Family Unit Size

Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

### Reasonable Accommodation

If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, the Authority is allowed to establish a higher payment standard for the family but not more than 110 percent of the published FMR without HUD approval.

### Increases in Payment Standard

If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination.

Families who are issued a voucher and are searching for a unit when an increase in payment standard takes effect will be notified of the higher amounts and will be provided new maximum rent burden amounts to help them in their search.

### Financial Feasibility

Before increasing the payment standard, the Authority may review the budget and budget 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 Authority will compare the number of families who could be served under a higher payment standard with the number assisted under current payment standards.

## CHAPTER 12

### RECERTIFICATIONS [24 CFR 982.516]

#### OVERVIEW

In accordance with HUD requirements, the Authority will recertify the income and household composition of all families at least once annually.

The Authority will provide families with accurate annual and interim rent adjustments according to reported or verified information.

Reexaminations (annual and interim) will be processed in a timely manner that ensures families are given reasonable notice of an increase in their rent portion.

Annual activities will be coordinated in accordance with HUD regulations. It is a HUD requirement that families report all changes in household composition and income.

This chapter defines the Authority's policy for conducting reexaminations for annual and interim activities.

## **CHAPTER 12**

### **12-I.A. ANNUAL ACTIVITIES [24 CFR 982.516]**

There are two (2) activities the Authority will conduct on an annual basis.

These activities will be coordinated whenever possible:

1. Recertification of income and family composition
2. HQS inspection

The Authority monitors a monthly listing of units under contract to ensure that timely reviews of rent to owner, housing quality standards, and factors related to total tenant payment (TTP) can be made.

#### **Moves between Reexaminations**

At the discretion of the Authority when families move to another dwelling unit, an interim "transfer" recertification may be required (unless a recertification has occurred in the last one hundred twenty (120) days).

The transfer will be reported to HUD as an "other change of unit". The anniversary date will remain the same annually, it does not change when a family moves from one unit to the next.

#### **Reexamination Notice to the Family**

The Authority will maintain a recertification report tracking system and notify the family when the annual recertification is due. Notification may be done electronically (email / online portal) or by mailing.

At the Authority's discretion, recertification's will be conducted using the online resident portal and may be conducted by mail when requested as a reasonable accommodation, or in person appointment.

If by appointment, the family will be notified of the date and time of the scheduled appointment. Families may be notified of an upcoming annual recertification due by email used to register with the online resident portal or U.S. mail approximately ninety (90) days in advance of the anniversary date. The Authority's preferences for recertifications is to submit information through the online resident portal.

If requested as a reasonable accommodation by a person with a disability, the Authority will provide the notice in an accessible format and/or aid with completing the online renewal.

The Authority is required to conduct third party verification when the family fails to provide all required documents.

### Completion of Annual Recertification

The Authority is required to complete annual recertifications for families before the effective date of their annual anniversary date. This includes notifying the family of any increase to the tenant portion of rent change at least thirty (30) days before the effective date of the change in family rent.

*Persons with Disabilities:* Persons with disabilities who are unable to complete the recertification paperwork by mail may request as a reasonable accommodation to have their annual recertification conducted at in-person at the family's home, or by other means when the accommodation requested meets the need presented by the disability.

### Collection of Information [24 CFR 982.516(f)]

The Authority has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate. The Authority will require the family to complete a full certification packet for all annual recertifications.

### Requirements to Attend

When appointments are scheduled the Authority may require all adult household members to attend the appointment or interview. If the head of household is unable to attend the interview, the spouse or co-head may recertify for the family.

### Failure to Respond

Failure to attend a regularly scheduled appointment may result in termination of housing assistance if the family fails to notify the Authority in advance that they need to reschedule. The family must contact the Authority to request another appointment date prior to missing a scheduled appointment.

If the family fails to attend or respond (for recertifications by mail), the Authority will make a second attempt to reschedule the appointment or mail a second and final notice to attend.

If the family fails to attend or misses a second scheduled appointment, and has not communicated with the Authority, or provided good cause failing to attend, the family will have violated the Obligations of the Family causing grounds for the Authority to propose termination of assistance. The notice will advise they are in violation of program family obligations. The notice informs the family

they have an option to request an informal hearing.

Documents that are mailed to the family's address and that are returned to the Authority by the Post Office with a forwarding address will be forwarded to the address shown. The Authority will make one attempt to forward mail to the forwarding address. Mail returned by the Post Office without a forwarding address will not be mailed a second time. The Authority will contact the family to confirm any changes shown to the address.

When mail is returned by the Post Office with a forwarding address, the Authority must follow up to determine a family has not moved without notice. The Authority will make no more than two attempts to contact the family before mailing a Notice of Proposed Termination letter.

Exceptions may be made by the Director of Housing Programs or his or her designee, if the family is able to document an emergency situation that prevented them from canceling or attending a scheduled appointment for good cause.

#### Documents Required from the Family

The Authority will enclose instructions for the family on what to provide with the recertification.

Items requested may include but are not limited to the following (if applicable):

- Online completion of the electronic Personal Declaration forms to be completed by head of household and all adult members of the household 18 years of age and older;
- 3-6 most current and consecutive paystubs (for each working member);
- Current SSI/SSA Award/benefit letter;
- Unemployment Printout;
- Members claiming zero income may be required to complete a Statement of Facts and/or Certificate of No Income form;
- Current pension award statement(s);
- Bank statements for all members and accounts (3 most current/consecutive);
- Child Support award statement;
- Three (3) current /consecutive months of rent receipts (if landlord does not provide receipts, money order stub, cancelled check stub, or letter from landlord is sufficient);
- Verification of Immigration Status (if applicable) at each annual reexamination;

- Photo I.D. for each adult member.

Other required forms included with the packet:

- Authorization for Release of Information form;
- Form HUD 92006;
- Medical Marijuana Form;
- VAWA form;
- Form HUD 9886

### Verification Methods

The Authority is required to perform verification of information provided by the family and will follow the verification procedures described in Chapter 7 Verification Procedures of this Administrative Plan. Verifications for reexaminations must be dated within the last one hundred twenty (120) days old.

### College Student Redetermination of Eligibility

For Head of Households that are a college student within a household must provide documentation that the student does or does not anticipate receiving financial support from the student's parent(s) or guardian(s) and if applicable, the amount of support anticipated to be received.

Each college student receiving an athletic scholarship must provide verification of amounts applied to housing costs.

The Authority must verify, via independent third-party verification, all amounts anticipated to be received outside of the family during the twelve (12) month period following admission and the effective date of the annual reexamination.

This may be achieved by requesting a copy of the college student's Form 1040EZ, 1040, or 1040A tax returns for the prior year. The Authority may also, if practicable, review the college student's parents or guardians tax returns. The college student must supply information requested by the Authority necessary in the administration of (CFR 982.551) of the program.

The full amount of financial assistance from federal and state grants loans, academic scholarships, and work study program wages that are paid directly to the student or the educational institution are not included in the determination of annual or adjusted income (24 CFR 5.609 (c)(6)). Amounts paid directly to the student for living expenses will be included as income. This excludes any financial assistance received for mandatory fees and charges in addition to tuition.

### Tenant Rent Increase

If the tenant rent portion increases the Authority will notify the family via email thru the online resident portal, or by U. S. Mail at least thirty (30) day in advance of the change to rent portion.

If less than thirty (30) days are remaining before the scheduled effective date of the annual recertification and there was an increase in tenant portion due to a delay by the Authority, the family will not be responsible for the increase in portion without being given 30 days advance notice.

If there is an increase in the family's rent portion and less than thirty (30) days are remaining before the scheduled effective date of the annual recertification due to a delay by the family, or when there has been a misrepresentation or a material omission by the family, the family will be responsible to pay such increase retroactive to or on the effective date of the recertification.

### Tenant Rent Decreases

If the tenant rent decreases, it will become effective on the certification anniversary date.

### Reporting Interim Changes [24 CFR 982.516]

Program participants must report all changes in the household within thirty (30) days of the change taking effect when the change occurs between annual reexaminations. This includes changes to income and household composition such as removal of or additions to the household due to birth, adoption and court-awarded custody and any changes in household income. The family must obtain Authority prior approval to all other additions to the household.

### Additions to Household Member

The Authority will not issue a larger voucher due to additions of family members other than by birth, adoption, marriage, or court-awarded custody of a current approved family member. Exceptions may be approved as a reasonable accommodation for persons with a disability.

### Immigration Status

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at first interim or regular recertification after moving into the unit.

If the non-citizenship category of the family changes due to a member becoming an eligible citizen, eligible non-citizen, or whatever the circumstances, a reexamination will be conducted to adjust the rent according to the change in immigration status, even if income and family composition remains unchanged. Certain classifications of immigration status require the Authority to pro-rate a family's subsidy if certain criteria are not met.

### Interims:

An interim reexamination does not affect the date of the annual certification.

Families claiming zero income will be required to have their income reviewed by the Authority every ninety (90) days for any change in income.

### Enterprise Income Verification

The Authority reviews income using the Enterprise Income Verification (EIV) systems income report within ninety (90) days of each new admission to the program to confirm and verify that the income reported by the family during the initial eligibility determination is true and correct. Any income discrepancies will be resolved with the family within thirty (30) days of the date the EIV Income Report was processed.

Any changes reported by participants other than those listed in this section will be noted in the participant file and electronic computer file by the staff person but may not be processed between regularly scheduled annual recertifications.

Families are required to report all increases in income and/or assets within thirty (30) days of the increase.

The Authority is not required to, but may, conduct interim reexaminations when the increase is less than \$200.00 of the monthly adjusted income.

Participants in the Family Self-Sufficiency (FSS) program are exempt from this rule as increases in income will generate a change in their escrow balance.

The Authority will review all reported increases in total household income.

### DECREASES IN INCOME

The Authority is required to process changes for family's who report a decrease in income or other changes which reduce the amount of tenant rent.

The Authority must calculate the change if a decrease in income is reported.

Decreases in the tenant portion of the rent will be made effective the first day of the month following the month in which the change was reported, if the change was reported in writing on or before the fifteenth (15<sup>th</sup>) day of the month.

Changes reported after the fifteenth (15<sup>th</sup>) day of the month will be made effective on the first day of the second month after the change was reported.

### Authority Errors

If the Authority makes a calculation error at admission to the program or at an annual or interim reexamination, will be conducted to correct the error. For corrections made that result in an increase to the tenant portion will not require the family to pay the increased amount retroactively.

Corrections made to decreases in a tenant's portion, when applicable, will be retroactive to when the decrease for the change was reported by the family.

## **12-I.B. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS**

The Authority will not reduce the family share of rent for families whose welfare assistance is reduced due to a specified welfare benefit reduction in benefits by the welfare agency specifically because of:

- Fraud in connection with the welfare program; or
- Failure to participate in an economic self-sufficiency program
- Noncompliance with a work activities requirement

However, the Authority will reduce the rent if the welfare assistance reduction is a result of:

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

### Definition of "Imputed Welfare Income"

The full benefit amount, not the reduced amount actually received by a family, will be used when the reduction is as a result of a specified welfare benefit reduction.

The amount of imputed welfare income is determined by the Authority based on written information supplied to the Authority via third-party verification requested from 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 reexamination, during the term of the 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 claims the amount of imputed welfare income has been calculated incorrectly, the Authority will review the calculation for accuracy. If the imputed welfare income amount is correct, the Authority 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 Authority determination.

### Verification before Denying a Request to Reduce Rent

The Authority will obtain written verification from the welfare agency stating the reason for the family's benefits having been reduced *before* denying the family's request for rent reduction. The Authority will rely on the welfare agency's written notice to the Authority regarding welfare sanctions.

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

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

## Family Dispute of Amount of Imputed Welfare Income

If the family disputes the amount of imputed income and the Authority denies the family's request to modify the amount, the Authority will provide the tenant with a notice of denial. The notice which will include:

- An explanation for the Authority's determination of the amount of imputed welfare income.
- A statement that the tenant may request an informal hearing.
- A statement that the information received from the welfare agency cannot be disputed at the informal hearing, and the issue to be examined at the informal hearing will be the Authority's determination of the amount of imputed welfare income, not the welfare agency's determination to sanction the welfare benefits.

The Authority has taken an active approach in creating an effective working relationship between the Authority and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to program participants.

The Authority 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 program participants.

## **12-I.C. DISALLOWANCE OF EARNED INCOME FROM RENT DETERMINATIONS (MEID) [24 CFR 5.616; 982.201(b) (3)]**

The Earned Income Disallowance (EID) is designed to promote self-sufficiency for families with disabilities who are program participants and meet the definition of a "qualified family" as described in 24 CFR 5.617 and 24 CFR 960.255. The EID benefit is limited to a lifetime of a 24-month period for the qualifying family member. Once a family member is determined eligible for the EID, the 24-calendar month period starts and remains effective for 24 consecutive months regardless, whether the family member discontinues the employment that initially qualified the family for the EID, the EID qualification period terminates at the end of the 24-calendar month period.

During the first 12–calendar month period, the Authority must exclude all increased income resulting from the qualifying employment of the family member. After the first 12–calendar month period, the Authority must exclude from annual income at least 50 percent of the increase in earned 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). At the end of the 24 months, the EID ends regardless of how many months were "used."

A disabled family member is qualified for the earned income exclusion if a family that is receiving tenant-based rental assistance under the housing program meets one or more of the following conditions:

- 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 during or within six (6) months after receiving assistance, benefits or services under any State program for TANF provided that the total amount over a six-month period is at least \$500. The qualifying TANF assistance may consist of any amount of monthly income maintenance, and/or at least \$500 in such TANF benefits and services as one-time payments, wage subsidies and transportation assistance.

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

The HUD definition of an 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 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 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.

Qualifying increases 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 in such programs. 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.

### 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 initial cumulative twelve (12) month period of exclusion (if any);
- Date the family member has received a total of twelve (12) months of the initial exclusion;

- Date the twelve (12) month phase-in period began;
- Ending date of the maximum twenty-four (24) months, disallowance period.

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

### Applicability to Child Care Expense Deductions

The amount deducted for child care necessary to permit employment shall not exceed the amount of employment income that is included in annual income. Therefore, for 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 deductions.

### **12-I.D. NOTIFICATION of RESULTS of REXAMINATIONS**

The HUD form 50058 will be completed and transmitted as required by HUD no later than 60 calendar days from the effective date of any action recorded. The Notice of Rent Change will be mailed to the owner and the tenant.

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.

### **12.I.E. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS)**

**[24 CFR 982.516(c)]**

The Authority requires that families report interim changes in the family composition and/or income to the Authority within thirty (30) 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 Authority.

If the change is not reported within the required time period it will be considered untimely reporting.

### Procedures when the Change is Reported in a Timely Manner

The Authority will notify the family and the owner of any change in the Housing Assistance Payment (HAP) be effective according to the following guidelines:

### Increases in the Tenants:

- Are effective on the first of the month following at least thirty (30) day notice. An increase in a monthly adjusted income of \$200 or less will not result in a change in the tenant's portion.

### Decreases in the Tenant Rent:

- Are effective the first of the month following that in which the change is reported, if the change was reported in writing on or before the fifteenth (15<sup>th</sup>) day of the month. If reported after the fifteenth (15<sup>th</sup>) day of the month, the effective date of the tenant portion of rent will be effective on the first day of the second month after the change was reported.

The change will not be made until the verifications have been received. The Authority will request documentation from the family and conduct third-party verification as required.

## **12-I.F. CONTINUANCE of ASSISTANCE FOR "MIXED" FAMILIES**

### **[24 CFR 5.518]**

Under the Non-citizens Rule, "mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

The non-citizens rule was implemented prior to November 29, 1996, and "mixed" families who were participants as of June 19, 1995, shall continue receiving full assistance if they meet all of the following criteria:

- The Authority implemented the Non-Citizen Rule prior to November 29, 1996; and
- The head of household or spouse is a U.S. citizen or has eligible immigrant status; and
- 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.
- "Mixed" families who qualify for continued assistance after November 29, 1996, may receive prorated assistance only.

## **12-I.G. MISREPRESENTATION of FAMILY CIRCUMSTANCES**

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the Authority may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition.

## **CHAPTER 13**

### **MOVES WITH CONTINUED ASSISTANCE and PORTABILITY**

**[24 CFR 982.314 CFR 982.353, 982.354, 982.355(a)]**

#### **OVERVIEW**

HUD regulations permit families to move with continued assistance to another unit within the Authority's jurisdiction, or to a unit outside of the Authority's jurisdiction under portability procedures. The regulations also allow the Authority 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 Authority's jurisdiction, and the policies for restriction and limitations on moves.

### **13-I.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 Authority 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 (and if the family has a right to terminate the lease on notice to owner) for owner breach or otherwise.

The Authority will consider protections to victims and/or affiliated individuals of domestic violence in accordance with VAWA 2010 and VAWA 2013.

### **13-I.B. RESTRICTIONS ON MOVES [24 CFR 982.354, 982.552(a)]**

Families will not be permitted to move more than once in a 12-month period.

The Authority will deny permission to move if there is insufficient funding for continued assistance. The Authority must provide written notification to the local HUD office within ten (10) days of determining it is necessary to deny moves to a higher-cost unit based on insufficient funding.

The Director of Housing Programs and his or her designee may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control.

Consistent with applicable civil rights laws and regulations, the Authority will deny permission to move if:

- The family has been issued a Notice of Proposed Termination due to a violation of any Family Obligations, Grounds for Termination, or has violated any rules and regulations under the Housing Choice Voucher Program;
- The family owes the Authority money and is in arrears or has defaulted on a repayment agreement;

- The family violates any policies and procedures set forth in this Administrative Plan;
- If the Authority determines that no subsidy would be paid at the new unit, the Authority will not enter into a HAP contract on behalf of the family;
- The family has moved or been issued a voucher within the last twelve (12) months.

If the family or a member of the family, is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), and the move is needed to protect the health or safety of the family or family member, or if any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.

A Housing Authority may not terminate assistance if the family, with or without prior notification to the Housing Authority, moves out of a unit in violation of the lease, if such move occurs to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit. However, any family member that has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move is not required to believe that he or she was threatened with imminent harm from further violence if he or she remained in the dwelling unit.

### **13-I.C. PROCEDURE for MOVES [24 CFR 982.354]**

#### Issuance of Voucher

Subject to the restrictions on moves and at the discretion of the Authority, if the family has not been recertified within the last one hundred twenty (120) days, the Authority may issue the voucher to move after conducting the recertification and 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.

The annual recertification date will not 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 Authority proper written notice of any intent to move.

The family must give the owner the required number of day's written notice of intent to vacate specified in the lease and must give a copy to the Authority 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 at the end of the month in which the tenant ceased to occupy, unless proper notice was given to end a lease mid-month.

Assistance will start on the new unit on the effective date of the lease, after the initial inspection passes, or the move in date, whichever is later.

Assistance payments may not overlap for the month in which the family moves.

### **13-I.D. PORTABILITY [24 CFR 982.353]**

Portability applies to families moving out of or into the Authority's jurisdiction within the United States and its territories.

The initial Authority must determine the family's eligibility to move.

### **13-I.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 Authority's jurisdiction, anywhere in the United States, in the jurisdiction of an Authority with a tenant-based program.

The initial PHA must contact the receiving PHA prior to approving the family's request to move to determine if the receiving PHA will bill or absorb.

The receiving PHA must respond to the initial PHA's request in writing (or email).

If a receiving PHA notifies the initial PHA that it will absorb the voucher, it cannot reverse its decision at a later date without consent of the initial PHA.

The initial Authority must promptly notify the receiving Authority to expect the incoming family.

This means the initial Authority contacts the receiving Housing Authority on the family's behalf, typically by telephone, fax or electronic mail. Simply referring the family to HUD or a website for information on the receiving Authority's address does not fulfill the responsibilities of the initial Authority under the program regulations.

The initial Authority must also advise the family how to contact and request assistance from the Authority (i.e. the name and telephone number of the staff person responsible for working with incoming portability families, and any procedures related to appointments for voucher issuance the Authority has shared with the initial Authority).

The revised HUD Form 52665 now contains a line that the initial Authority uses to identify the Authority to which the initial Authority is referring the family.

If there is more than one Authority in the area in which the family has selected a unit, the family will select the receiving Authority.

The initial Housing Authority must not provide such portable assistance for a participant if the family has moved out of the assisted unit in violation of the lease except as provided for in this subsection.

If the family moves out in violation of the lease in order to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believes him or herself to be threatened with imminent harm from further violence by remaining in the dwelling unit (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move), and has otherwise complied with all other obligations under the Section 8 program, the family may receive a voucher from the initial Housing Authority and move to another jurisdiction under the Housing Choice Voucher Program.

The portability restrictions do not apply when the family or a member of the

family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR Part 5, Subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), and the move is needed to protect the health or safety of the family or family member, or any family member who has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.

#### Receiving Authority Processing Responsibilities / Restrictions on Portability:

A receiving PHA cannot refuse to assist incoming portable families or direct them to another neighboring PHA for assistance.

HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, the PHA must have approval in writing from HUD before refusing any incoming portable families.

#### Applicants

If the head or spouse did not have a domicile (legal residence) in the Authority's jurisdiction at the date of their initial application for assistance, the family will not be permitted to exercise portability upon initial issuance of a voucher, unless the Authority approves such move. (NOTE: legal domicile is defined by local government.)

For a portable family that was not already receiving assistance in the Authority's tenant-based program, the Authority must determine whether the family is eligible for admission under the receiving Authority's program.

#### Participants

After an applicant has leased-up in the jurisdiction of the initial housing agency, they cannot exercise portability during the first year of assisted occupancy, except in the following circumstances:

- The receiving and initial Authority's agree to allow the move;
- The family's move relates to an opportunity for education, job training or employment

The Authority will not permit families to exercise portability for the following reasons:

- If the family is in violation of a family obligation;
- If the family owes money to the Authority;
- If the family has moved out of its assisted unit in violation of the lease.

### **13-I.F. PORTABILITY [24 CFR 982.355]**

#### **Absorption or Administration**

The Authority will accept a family with a valid voucher from another jurisdiction and administer or absorb the voucher. HUD may determine in certain instances that a Housing Authority is not required to accept incoming portables, such as Housing Authority declared disaster area. However, the Housing Authority must have approval in writing from HUD before refusing any incoming portables. If administering, the family will be issued a "portability" voucher by the Housing Authority.

The term of the voucher will not expire before the expiration date of any initial Housing Authority voucher.

The family must submit a Request for Lease Approval for an eligible unit to the receiving Housing Authority during the term of the receiving Housing Authority voucher.

The receiving Housing Authority may grant extensions in accordance with this Administrative Plan. However, if the family decides not to lease-up in the Authority's jurisdiction, they must contact the initial Housing Authority to request an extension.

Once the receiving Housing Authority determined, the initial Housing Authority must contact the receiving Housing Authority, via email or other confirmed delivery method, prior to approving the family's request to move in order to determine whether the voucher will be absorbed or billed by the receiving Housing Authority.

The receiving Housing Authority must advise the initial Housing Authority in writing, via email, or other confirmed delivery method, of its decision. If the receiving Housing Authority notifies the initial Housing Authority that it will absorb the voucher, the receiving Housing Authority cannot reverse its decision at a later date without consent of the initial Housing Authority.

The Authority may absorb all incoming portable families provided that there is funding available.

When the Authority does not absorb the incoming voucher, it will administer the initial Housing Authority voucher and the receiving Housing Authority 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 receiving Housing Authority does not re-determine eligibility for a portable family that was already receiving assistance in the initial Housing Authority Housing Choice Voucher Program.

The Authority 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 receiving Housing Authority will change to the proper size based on its own subsidy standards. The term of the receiving Housing Authority voucher may not expire before 30 calendar days from the expiration of the initial Housing Authority voucher. If the voucher expires before the family arrives at the receiving Housing Authority, the receiving Housing Authority must contact the initial Housing Authority to determine if it will extend the voucher. Once the receiving Housing Authority issues the portable family a voucher, the receiving Housing Authority's policies on extensions of the voucher term apply. The receiving Housing Authority must notify the initial Housing Authority of any extensions granted to the term of the voucher.

#### Income and Total Tenant Payment of Incoming Portables [982.353(d)]

As the receiving Authority, the Authority will conduct a recertification interview but only verify the information provided if the documents are missing or are over one hundred twenty (120) days old, whichever is applicable, or there has been a change in the family's circumstances.

If the Authority 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 Authority's jurisdiction, the Authority will refuse to enter into a contract on behalf of the family at \$0 assistance.

### Voucher Briefings and Issuance:

Administration of the ported voucher must be in accordance with the receiving PHA's policies.

The Authority must explain how portability works to all families.

The Authority must provide information on how portability may affect the family's assistance through screening, changes in subsidy standards and payment standards, and any other elements of the portability process that may affect the family's assistance.

### Voucher Extensions:

The receiving PHA must issue a voucher to the ported family that does not expire before 30 calendar days from the expiration date of the initial PHA's voucher.

The receiving PHA must contact the initial PHA if the family's voucher expires before the family arrives at the receiving PHA, to determine whether the initial PHA will extend the voucher.

The receiving PHA must notify the initial PHA of any extensions granted to the term of the voucher.

Initial and receiving PHA's must administer Special Purpose Vouchers (SPV) in accordance with HUD established policy in cases where HUD has established alternative program requirements of such SPV's.

The initial PHA must submit any SPV codes for the Family Report (50058).

The receiving PHA must maintain such codes as long as it is billing for the ported voucher.

### Request for Approval of Tenancy

A briefing will be mandatory for all portability families.

When the family submits a Request for Tenancy Approval (RFTA), it will be processed using the Authority's policies. If the family does not submit an RFTA or does not execute a lease, the initial Housing Authority will be notified within sixty (60) days by the Authority.

If the family leases up successfully, the Authority will notify the initial Housing Authority within 90 days and the billing process will commence.

The Authority will notify the initial Housing Authority if the family fails to submit an RFTA for an eligible unit within the term of the voucher.

If the Authority denies assistance to the family, the Authority will notify the initial Authority within sixty (60) days and the family will be offered a review or hearing.

The Authority will notify the family of its responsibility to contact the initial Housing Authority if the family wishes to move outside the Authority's jurisdiction under continued portability.

### Regular Program Functions

The Authority will perform all program functions applicable to the tenant-based assistance program, such as:

- Annual reexaminations of family income and composition;
- Annual/Biennial inspection of the unit;
- Interim examinations when requested or deemed necessary by the Authority.

### Terminations

The Authority will notify the initial Housing Authority in writing of any termination of assistance within sixty (60) days of the termination. If an informal hearing is required and is requested by the family, the hearing will be conducted by the Authority, using the regular hearing procedures included in this Administrative Plan. A copy of the hearing decision will be furnished to the initial Housing Authority.

The initial Authority will be responsible for collecting amounts owed by the family for claims paid and for monitoring repayment. If the initial Housing Authority notifies the Authority that the family is in arrears or the family has refused to sign a repayment agreement, the Authority will terminate assistance to the family.

The receiving Housing Authority will be required to submit hearing determinations to the Authority within thirty (30) days.

## Required Documents

As receiving Housing Authority, the Authority will require the documents listed on the HUD portability billing form from the initial Authority:

- A copy of the family's voucher, with issue and expiration dates formally acknowledging the family's ability to move under portability;

The most recent HUD Form 50058 and verifications of:

- Current information related to eligibility including EIV printout;
- The administrative fee schedule for billing purposes;
- Form HUD-52665, Family Portability Information, Housing Choice Voucher Program.

## Billing Procedures

As the receiving Housing Authority, the Authority will bill the initial Authority monthly for Housing Assistance Payments. The billing cycle for other amounts, including administrative fees and special claims, will be monthly unless requested otherwise by the initial Authority.

The Authority will bill one hundred percent (100%) of the Housing Assistance Payment, one hundred percent (100%) of special claims and the lesser of eighty percent (80%) of the of the administrative fee of the initial Housing Authority or one hundred percent (100%) of the receiving Housing Authority's ongoing administrative fee for each "portability" voucher leased as of the first day of the month. If administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving Housing Authority may bill.

The Authority will notify the initial Housing Authority of changes in subsidy amounts and will expect the initial Housing Authority to notify the Authority of changes in the administrative fee amount to be billed.

## Summary of Portability Billing Deadlines

The following summarizes the relevant deadlines under the portability billing procedures.

Submission of Initial Billing Amount (Part II of the Form HUD 52265):

The Housing Authority must submit initial billing notice:

- No later than ten (10) working days following the date the HAP contract was executed and;
- In the time that it will be received, no later than ninety (90) days following the expiration date of the family's voucher issued by the initial Housing Authority;
- Payment of First Billing Amount: The initial Housing Authority makes payment within thirty (30) days of receipt of Part II of the HUD Form 52265 indicating the billing amount;
- Payment of Subsequent Billing Amounts:
  - The initial Housing Authority is responsible for ensuring that subsequent billing amounts are received no later than the fifth (5<sup>th</sup>) working day of each month for which the monthly billing amount is due;
  - Notification of Change in Billing Amount or Other Action: The Authority notifies the initial Housing Authority of any change in the billing amount as soon as possible (preferably before the effective date to avoid retroactive adjustments) but under no circumstance any later than ten (10) working days following the effective date of the change.

## **CHAPTER 14**

### **CONTRACT TERMINATIONS [24 CFR 982.311(b)(c)]**

#### **OVERVIEW**

The Housing Assistance Payment (HAP) Contract is the contract between the Owner and the Authority which defines the responsibilities of both parties. This chapter describes the circumstances under which the contract can be terminated by the Authority and the owner, and the policies and procedures for such terminations.

## **14-I.A. CONTRACT TERMINATION [24 CFR 982.311]**

### Payments under HAP contract:

Housing Assistance Payment (HAP) is the amount of subsidy paid to an owner by the Authority on behalf of the family in accordance with the terms of the HAP contract. HAP may only be paid to the owner during the lease term, and while the family is residing in the unit.

### Termination of payment:

When owner terminates the lease:

- Housing assistance payments terminate when the lease is terminated by the owner. However, if the owner has commenced the process to evict the tenant, and if the family continues to reside in the unit, the Authority must continue to make housing assistance payments to the owner in accordance with the HAP contract until the owner has obtained possession whether by a court judgment or other process allowing the owner to evict the tenant. The Authority may continue such payments until the family moves from or is evicted from the unit.

### Other reasons for termination:

Housing assistance payments terminate if:

- The lease terminates;
- The HAP contract terminates; or
- The Authority terminates assistance for the family.

The owner must reimburse the Authority for any overpayment of HAP received from the Authority for any period after the contract termination date.

## **14-I.C. TERMINATION OF TENANCY BY THE OWNER: EVICTIONS** **[24 CFR 982.310]**

### Grounds for Termination:

During the term of the lease, the owner may not terminate the tenancy except on the following grounds:

- Serious lease violation (including but not limited to failure to pay rent or other amounts due under the lease) or repeated violation of the terms and conditions of the lease;
- Violation of Federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises; or

- Other good cause.

Nonpayment by Authority:

Non-payment of HAP is not grounds for termination of tenancy.

The family is not responsible for payment of the portion of the rent to owner covered by the HAP under the HAP contract between the owner and the Authority.

The Authority's failure to pay the housing assistance payment to the owner is not a violation of the lease between the tenant and the owner. During the term of the lease the owner may not terminate the tenancy of the family for nonpayment of the Authority housing assistance payment.

Criminal activity:

Evicting drug criminals due to drug crime on or near the premises:

In order to evict for criminal activity, the lease must provide that drug-related criminal activity engaged in, on or near the premises by any tenant, household member, or guest, or such activity engaged in on the premises by any other person under the tenant's control, is grounds for the owner to terminate tenancy.

In addition, the lease must provide that the owner may evict a family when the owner determines that a household member is illegally using a drug or when the owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evicting other criminals:

Threat to other residents:

In order to evict for other persons committing criminal activity, the lease must provide that the owner may terminate tenancy for any of the following types of criminal activity by a covered person:

- Any criminal activity that threatens the health, safety, or 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, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or
- Any violent criminal activity on or near the premises by a tenant, household member, or guest, or any such activity on the premises by any other person under the tenant's control.

Fugitive felon or parole violator:

To evict for a fugitive felon or violator, the lease must provide that the owner may terminate the tenancy if a tenant or other person 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.

Evidence of criminal activity:

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a person in accordance with this section if the owner determines that the person has engaged in the criminal activity, regardless of whether the person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.

Other good cause:

“Other good cause” for termination of tenancy by the owner may include, but is not limited to, any of the following examples:

- Failure by the family to accept the offer of a new lease or revision;
- A family history of disturbance of neighbors or destruction of property, or of living or housekeeping habits resulting in damage to the unit or premises;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rental).

During the initial lease term, the owner may not terminate the tenancy for “other good cause”, unless the owner is terminating the tenancy because of something the family did or failed to do. For example, during this period, the owner may not terminate the tenancy for “other good cause” based on any of the following grounds:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy.

### Owner Notice to Terminate:

#### Notice of grounds:

- When an Owner serves a thirty-day notice to terminate tenancy, the owner must give the family a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the family.

### Eviction notice:

- Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action.
- The owner must give the Authority a copy of any owner served notices or eviction notice to the family.

### Eviction by court action:

The owner may only evict the tenant from the unit by instituting a court action.

### Regulations not applicable:

24 CFR Part 247 (concerning evictions from certain subsidized and HUD-owned projects) does not apply to a tenancy assisted under this part 982.

### Termination of tenancy decisions:

#### General:

If the law and regulation permit the owner to take an action but do not require action to be taken, the owner may take or not take the action in accordance with the owner's standards for eviction.

The owner may consider all of the circumstances relevant to a particular eviction case, such as:

- The seriousness of the offending action;
- The effect on the community of denial or termination or the failure of the owner to take such action;
- The extent of participation by the leaseholder in the offending action;

- The effect of denial of admission or termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

Exclusion of culpable household member:

The owner may require a tenant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

Consideration of rehabilitation:

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661).

For this purpose, the owner may require the family to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

Nondiscrimination limitation and protection for victims of domestic violence, dating violence, sexual assault, or stalking:

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions of 24 CFR 5.105, and with the provisions for protection of victims of domestic violence, dating violence, sexual assault, or stalking in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking).

Owner breach of contract. [24 CFR 982.453]:

Any of the following actions by the owner (including a principal or other interested party) is a breach of the HAP contract by the owner:

- If the owner has violated any obligation under the HAP contract for the dwelling unit, including the owner's obligation to maintain the unit in accordance with the HQS.

- If the owner has violated any obligation under any other HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437f);
- If the owner has committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.

For projects with mortgages insured by HUD or loans made by HUD:

- If the owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement; or if the owner has committed fraud, bribery or any other corrupt or criminal act in connection with the mortgage or loan.
- If the owner has engaged in drug-related criminal activity.
- If the owner has committed any violent criminal activity.

The Authority's rights and remedies against the owner under the HAP contract include recovery of overpayments, abatement or other reduction of housing assistance payments, termination of housing assistance payments, and termination of the HAP contract.

**14-I.D. TERMINATION of TENANCY by the OWNER: FORCLOSURE:**

Protecting Tenants at Foreclosure Act (PTFA):

- Is a recently enacted law that amends the HAP Contract by requiring that each HAP contract include additional requirements on the owner and shall provide that during the term of the lease, the owner shall not terminate the tenancy except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause such as:

In the case of an owner who is an immediate successor in interest pursuant to foreclosure (during the term of the lease) and is vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the new owner if the owner:

- Will occupy the unit as a primary residence; and
- Has provided the tenant a notice to vacate at least ninety (90) days before the effective date of such notice.

Foreclosed properties where Authority voucher recipients reside must comply with Sections 702 and 703 of the PTFA. If the immediate successor-in-interest

or new owner will use the unit as a primary residence, the lease can be terminated effective on the date of the sale, however, the tenant is still entitled to a minimum of ninety (90) days' notice to vacate.

**14-I.E. TERMINATION of the CONTRACT by "AUTHORITY" [24 CFR 982.453]**

The term of the HAP contract terminates when:

- The lease terminates,
- When the Authority terminates program assistance for the family, and
- When the owner has breached the HAP contract.

The Authority will also terminate the contract if:

- The family is in violation of any of their family obligations;
- The family is required to move from a unit when the unit does not meet the HQS space standards because of an increase in family size or a change in the family composition;
- The contract will terminate automatically if one hundred eighty (180) days have passed since the last housing assistance payment to the owner;
- The single family member is deceased;
- Funding is no longer available under the Annual Contributions Contract (ACC).

**Termination of HAP contract: Insufficient funding [24 CFR 982.454]:**

The Authority may terminate the HAP contract if it is determined, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families on the program.

**Automatic termination of HAP Contract [24 CFR 982.454]:**

The HAP contract terminates automatically 180 calendar days after the last housing assistance payment to the owner.

If the Authority determines that the necessary action to reduce HAP costs within the funding level is to terminate HAP contracts, it may act to terminate the HAP contracts based on one or more of the following criteria:

- Households with a zero (\$0) HAP Contract starting with the families closest to the 180 days;
- Households with a current HAP Contract less than \$100 per month;
- Households whose participants have violated program requirements as evidenced by repayment agreements or signed counseling documents;
- HAP contracts with gross rents that exceed the new payment standards and offer landlords new contracts under the current subsidy standards and payment standards;
- Households on the program the longest with the lowest HAP.

Elderly and disabled families will be excluded from the criteria referenced above for terminating HAP Contracts due to insufficient funding.

Terminating HAP contract when unit is too small [24 CFR 982.403]:

Violation of HQS space standards:

If the Authority determines that a unit does not meet the HQS space standards because of an increase in family size for a change in family composition, the Authority must issue the family a new voucher for a larger size unit, and the family must find an acceptable unit.

If an acceptable unit is available for rental by the family, the Authority must terminate the HAP contract in accordance with its terms.

Termination:

The Authority may terminate the HAP contract under paragraph (a) of this section:

- The Authority must notify the family and the owner of the termination; and
- The HAP contract terminates at the end of the calendar month that follows the calendar month in which the Authority gives such notice to the owner;

The family may move to a new unit in accordance with § [24 CFR 982.354].

Notice of Termination

When the Authority terminates the HAP contract under the violation of HQS space standards, the Authority will provide the owner and family written notice

of termination of the contract, and the HAP contract terminates at the end of the calendar month that follows the calendar month in which the Authority gives such notice to the owner.

Third parties [24 CFR 982.456]:

Even if the family continues to occupy the unit, the Authority may exercise any rights and remedies against the owner under the HAP contract.

The family is not a party to or third party beneficiary of the HAP contract the family may not exercise any right or remedy against the owner under the HAP contract.

The tenant may exercise any right or remedy against the owner under the lease between the tenant and the owner, including enforcement of the owner's obligations under the tenancy addendum (which is included both in the HAP contract between the Authority and the owner; and in the lease between the tenant and the owner).

The HAP contract shall not be construed as creating any right of the family or other third party (other than HUD) to enforce any provision of the HAP contract, or to assert any claim against HUD, the Authority or the owner under the HAP contract.

## **CHAPTER 15**

### **DENIAL OR TERMINATION OF ASSISTANCE [24 CFR 5.903, 5.905, 982.54, 24 CFR 982.552, 982.553]**

#### **OVERVIEW**

HUD regulations outline mandatory and discretionary grounds for which the Authority must and/or may deny or terminate assistance and provides circumstances that an Owner may terminate the tenancy of a family under the HCV program.

The Authority may deny or terminate assistance for a family for actions that violate HUD regulations or Authority policy(s) and failure to comply with family obligations under the HCV program.

This chapter describes the policies that govern mandatory and discretionary termination and denials of assistance and defines when the Authority is required to deny or terminate and provides families with a written description of the family obligations under the program, the grounds under which the Authority can deny or terminate assistance, and the Authority's informal review/hearing procedures.

## **CHAPTER 15**

### **15-I.A. GROUNDS for TERMINATION:**

The Authority must terminate assistance for certain actions and inactions of the family and when the family no longer requires assistance due to increases in family income. HUD permits the Authority to terminate assistance for certain other actions or inactions of the family. In addition, a family may decide to withdraw from the program and terminate their HCV assistance at any time by notifying the Authority.

### **15-I.B. ZERO (\$0) ASSISTANCE TENANTS [24 CFR 982.455(a)]**

As a family's income increases the amount of the housing assistance payment decreases. If the amount of assistance provided by the Authority is reduced to zero, the family's assistance terminates automatically 180 days after the last HAP payment.

The family may remain in the unit at \$0 assistance for up to one hundred eighty (180) days after the last HAP. If the family is still in the unit after one hundred eighty (180) days, the assistance terminates. If, within the one hundred eighty (180) day timeframe, an owner rent increase in the total tenant payment causes the family to be eligible for a housing assistance payment, the Authority will resume assistance payments for the family.

In order for a family to move to another unit during the one hundred eighty (180) days, the rent for the new unit would have to be high enough to necessitate a HAP.

#### **Authority Policy**

If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify the Authority of the change and request an interim reexamination before the expiration of the 180-day period.

### **15-I.C. FAMILY CHOOSES to TERMINATE ASSISTANCE**

The family may request that the Authority terminate housing assistance payments on behalf of the family at any time.

#### Authority Policy

The request to terminate assistance should be made in writing prior to the effective date the family is requesting to terminate HAP and signed by the head of household, and spouse or cohead if applicable.

### **15-I.D. MANDATORY TERMINATION of ASSISTANCE**

HUD requires the Authority to terminate assistance in the following circumstances:

#### Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]:

The Authority must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. Incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking and the victim has informed both the Authority and landlord.

#### Authority Policy:

If the owner wishes to terminate the lease, the owner must provide proper notice as follows:

- 30-Day Notice: With Cause and notice must state lease violations as reasons for terminating tenancy;
- 90 Day Notice: No Cause

During the term of the lease, the owner may not terminate the tenancy except for any of the following:

- Serious or repeated violations of the lease, including but not limited to failure to pay rent or other amounts due under the lease, or repeated violation of the terms and conditions of the lease;
- Violations of Federal, state or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises;
- Any drug-related or criminal activity on or off the premises by a covered person that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, persons residing in the immediate vicinity of the premises, or property management personnel;
- Criminal activity by the tenant, any member of the household, a guest or another person under the tenant's control that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, or persons residing in the immediate vicinity of the premises or any drug-related criminal activity on or near the premises'
- Any violent criminal activity by a covered person on or near the premises;
- A tenant who is a fugitive felon or parole violator.

During the 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.

Other good cause, after the initial term of the lease, includes but is not limited to:

- Tenant history of disturbance of neighbors, destruction of property, or behavior resulting in damage to the premise;
- Business or economic reason for regaining possession;
- Owner's desire to repossess the unit for personal use;
- Tenant's refusal to accept offer of a new lease;

- The owner must give ninety (90) days written notice of termination and must have good cause to terminate the tenancy during the first year. The owner's notice must state the reason for termination;

If after the initial term of the lease, the owner may terminate tenancy without cause. The notice may be included in, or may be combined with, any owner eviction notices to the tenant. The owner eviction notice means a notice to vacate, or a complaint under State or local law to commence an eviction action.

During the initial term, the Authority requires that the owner specify the section of the lease that has been violated and cite some or all of the ways in which the tenant has violated that section as documentation for the Authority's decision regarding termination of assistance. Housing Assistance Payments (HAP) 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 Authority must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant.

The Authority will continue housing assistance payments until the family moves or is evicted from the unit. If the action is finalized in court, the owner must provide the Authority with the documentation, including notice of the lock-out date. The Authority 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 is not violated. By endorsing and/or deposit of the monthly check from the Authority, the owner certifies that the tenant is still in the unit, the rent is reasonable and they are in compliance with the contract.

If an eviction is not due to a serious or repeated violation of the lease, and if the Authority has no other grounds for termination of assistance, the Authority may issue a new voucher so that the family can move with continued assistance.

Failure to Provide Consent [24 CFR 982.552(b)(3)]:

The Authority must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a regular or interim reexamination.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]:

The Authority must terminate assistance if:

- Family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;
- Family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the Authority, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit; or
- Such termination must be for a period of at least 24 months.

This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated.

Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c)]

The Authority must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the Authority determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the Authority may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the Authority determined the family to be noncompliant.

Authority Policy:

The Authority will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed

processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]:

The Authority must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

Lifetime Registered Sex Offenders:

Should the Authority discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, the Authority must **immediately** terminate assistance for the household member.

In this situation, the Authority must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the Authority must terminate assistance for the household.

Failure of Students to Meet Ongoing Eligibility Requirements:

[24 CFR 982.552(b)(5)]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with his/her parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the Authority must terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and Authority policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

Death of the Sole Family Member [24 CFR 982.311(d)]:

The Authority must immediately terminate program assistance for deceased single member households.

**15-I.E. MANDATORY POLICIES and OTHER AUTHORIZED TERMINATIONS**

Mandatory Policies [24 CFR 982.551(l) and [24 CFR 982.553(b)]:

HUD requires the Authority to establish policies that permit the Authority to terminate assistance if the Authority determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;
- Any household member has violated the family's obligation not to engage in any drug- related criminal activity;
- Any household member has violated the family's obligation not to engage in violent criminal activity;
- Use of Illegal Drugs and Alcohol Abuse.

Authority Policy

The Authority will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The Authority will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

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

The Authority will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

A record of arrest(s) will not be used as the basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the Authority will consider alternatives and other factors. Upon consideration of such alternatives and factors, the Authority may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance:

[24 CFR 982.552(c), 24 CFR 5.2005(c)]

HUD permits the Authority to terminate assistance under a number of other circumstances. It is left to the discretion of the Authority whether such circumstances in general warrant consideration for the termination of assistance. The Violence against Women Act of 2013 explicitly prohibits Authorities from considering incidents of, or criminal activity directly related to, domestic violence, dating violence, sexual assault, or stalking as reasons for terminating the assistance of a victim of such abuse.

Additionally, per the alternative requirements listed in the Federal Register notice dated December 29, 2014, Authorities are no longer permitted to terminate assistance to a family due to the family's failure to meet its obligations under the Family Self-Sufficiency (FSS) contract of participation.

Authority Policy

The Authority will terminate a family's assistance if:

- The family has failed to comply with any family obligations under the program;
- Any family member has been evicted from federally-assisted housing in the last five years;
- Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

- The family currently owes rent or other amounts to any Authority in connection with Section 8 or public housing assistance under the 1937 Act;
- The family has not reimbursed any Authority for amounts the Authority paid to an owner under a HAP contract for rent, or other amounts owed by the family under the lease;
- The family has breached the terms of a repayment agreement entered into with the Authority;

A family member has engaged in or threatened violent or abusive behavior toward Authority personnel.

Abusive or violent behavior towards Authority personnel: Includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

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

- (A) Upon consideration of such alternatives and factors, the Authority may, on a case-by-case basis, choose not to terminate assistance.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. The Authority must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

Authority Policy

If the family is absent from the unit for more than 180 consecutive calendar days, the family's assistance will be terminated.

### Insufficient Funding [24 CFR 982.454]

The Authority may terminate HAP contracts if the Authority determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

If the Authority determines that the necessary action to reduce HAP costs within the funding level is to terminate HAP contracts, it may take action to terminate the HAP contracts based on one or more of the following criteria:

- Households with a zero (\$0) HAP Contract starting with the families closest to the 180 days;
- Households with a current HAP Contract less than \$100 per month;
- Households whose participants have violated program requirements as evidenced by repayment agreements or signed counseling documents;
- HAP contracts with gross rents that exceed the new payment standards and offer landlords new contracts under the current subsidy standards and payment standards;
- Households on the program the longest with the lowest HAP.

### Other Voucher Programs:

- Project-Based Voucher (PBV) HAP Contracts;
- Families comprising the required number of special purpose vouchers;
- HUD-Veteran's Affairs Supportive Housing (HUD- VASH); and
- Family unification program (FUP) will be the last to be terminated

Elderly and disabled families will be excluded from the criteria referenced above for terminating HAP Contracts due to insufficient funding.

Prior to terminating any HAP contracts, the Authority will inform the local HUD field office. The Authority will terminate the minimum number needed in order to reduce HAP costs to a level within the Authority's annual budget authority.

## Explanations and Terms

The term “promptly” when used with the family obligations always means “within thirty (30) days.” Denial or termination of assistance is always optional except where this Administrative Plan or the regulations state otherwise.

### Authority Discretion [24 CFR 982.552(c)]

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the Authority has discretion to consider all of the circumstances in each case, including the seriousness of the case. The Authority will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. The Authority may also review the family’s more recent history and record of compliance and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act.

The Authority 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 to act, will not reside in the unit. The Authority may permit the other members of the family to continue in the program.

### Housing Quality Standards (HQS) Breach

The Inspector and/or the Director of Housing Programs or his/her designee 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 by the Director of Housing Programs or his/ her designee.

### Proposed Additions to the Family

The Authority will deny a family’s request to add additional family members who are:

- Persons who have been evicted from public assisted housing.
- Persons who have previously violated a family obligation listed in 24 CFR 982.551 of the HUD regulations.
- Persons who have been part of a family whose assistance has been terminated under the voucher program.
- Persons who commit drug-related criminal activity or violent criminal activity.
- Persons who are subject to a lifetime registration requirement under a State sex offender registration program.
- Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program.
- Persons who currently owe rent or other amounts to the Authority or

- to another Authority in connection with the Housing Choice Voucher Program or public housing assistance under the 1937 Act.
- Persons who have engaged in or threatened abusive or violent behavior toward Authority personnel.

### Family Member Moves Out

Families are required to notify the Authority if any family member leaves the assisted household. When the family notifies the Authority, they must furnish the following information:

- The date the family member moved out
- The new address, if known, of the family member
- A statement as to the length of time the family member will be out of the household.

### Limitation on Profit-making Activity in Unit

If the Authority 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 Authority determines that the business is not legal, it will be considered a program violation.

### Interest in Unit

The owner may not reside in the assisted unit regardless of whether they are a member of the assisted family, unless the family owns the mobile home and rents the pad, excluding shared housing, unless the client is a participant in the Homeownership Option Program. The owner of a shared housing unit may reside in the unit. A resident owner may enter into a Housing Assistance Payment (HAP) contract with the Authority. However, housing assistance may not be paid on behalf of an owner. An assisted person may not be related by blood or marriage to a resident owner.

### Fraud

In each case, the Authority 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, see "Procedures for Non-citizens" in this Chapter.

### Drug-Related and Violent Criminal Activity

"Drug" is 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 of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug. Drug-related criminal activity means on or off the premises, not just on or near the premises.

“Violent criminal activity” includes any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage, and the activity is being engaged in by any family member.

### Authority Policy

The Authority will terminate a family’s assistance if any household member has violated the family’s obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The Authority will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

In making its decision to terminate assistance, the Authority will consider alternatives and other factors. Upon consideration of such alternatives and factors, the Authority may, on a case-by-case basis, choose not to terminate assistance.

### **15-I.F. INELIGIBILITY for DRUG-RELATED or VIOLENT ACTIVITY**

In an effort to prevent future drug-related 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 [24 CFR 982, Subpart L]and [24 CFR Part 5, Subpart J], the Authority will endeavor to screen applicants as thoroughly and fairly as possible for drug-related and violent criminal behavior. Such screening will apply to any member of the household who is 18 years of age or older.

Persons evicted from federally assisted housing because of drug-related criminal activity are ineligible for admission to the Housing Choice Voucher Program for a five (5) year period beginning on the date of such eviction, unless the household member completed an approved, supervised drug rehabilitation program or the circumstances for the eviction no longer exist.

(For example, the individual involved in drugs is no longer in the household because the person is deceased or incarcerated).

Applicants may be denied assistance if they have been arrested and convicted of a drug-related or violent crime, or evicted from federally assisted housing due to drug-related or violent criminal activity within the last five (5) years prior to the date of the eligibility interview.

Participants may be terminated who have been arrested and convicted of a drug-related or violent crime, and/or evicted from federally assisted housing due to drug-related or violent criminal activity within the last five (5) years prior to the date of the notice to terminate assistance, or whose activities have created a disturbance in the building or neighborhood.

### Screening Out Illegal Drug Users and Alcohol Abusers

The Authority will deny participation in the program to applicants in cases where the Authority determines there is reasonable cause to believe that the person is illegally using drugs or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. This includes cases where the Authority determines that there is a pattern of illegal use of a drug, or pattern of alcohol abuse.

The Authority will consider the use of a drug or alcohol to be a pattern if there is more than one incident documented and verified by the Authority during the previous six (6) months.

### Denial of Assistance for Sex Offenders

The Authority will deny admission if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In screening applicants, the Authority will perform criminal history background checks to determine whether any household member is subject to a lifetime sex offender registration requirement. The Authority will also screen all adult members of the household at time of recertification to determine whether any household member is subject to a lifetime sex offender registration requirement, this includes but is not limited to the use of the Drug Sjordin National Sex Offender database located at [www.nsopw.gov](http://www.nsopw.gov).

### Confidentiality of Criminal Records

The Authority 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.

### 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 is not to be determined by the number of witnesses, but by the greater weight of all evidence.

“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 where illegal drugs were found or illegal activity discovered.

The Authority may pursue fact-finding efforts as needed to obtain credible evidence. The Authority may terminate assistance for criminal activity by a household member under this section if the Authority 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.

#### Notice of Termination of Assistance

In any case where the Authority decides to terminate assistance to the family, the Authority must give the family written notice which states:

- The reason(s) for the proposed termination.
- A copy of the criminal record information, if applicable.
- 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 Authority.

If the Authority proposes to terminate assistance for criminal activity as shown by a criminal record, the Authority will provide the subject of the record with a copy of the criminal record or type of reports used to propose termination of assistance.

If the Notice of Proposed Termination letter is returned to the Authority with a forwarding address, the Authority will make no more than one (1) attempt to forward the appointment letter to the new forwarding address.

The Authority 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.

### False or Incomplete Information

When the Authority 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 will be given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, the Authority will give them an opportunity to provide a new declaration as an eligible immigrant or an opportunity to elect not to contend their status.

The Authority will then verify eligible status and deny, terminate, or prorate as applicable.

### Procedure for Denial or Termination

If the family (or any member) claimed eligible immigrant status and the United States Citizenship and Immigration Services (USCIS) primary and secondary verifications failed to document the status, the family may make an appeal to the USCIS and request a hearing with the Authority either after the USCIS appeal or in lieu of the USCIS appeal.

After the Authority has made a determination a family or member of the household, ineligible, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

### Violence Against Women and Justice Department Reauthorization Act of 2010 (VAWA 2010); Violence Against Women Reauthorization Act of 2013 (VAWA 2013):

The requirements of VAWA that are incorporated into the Housing Choice Voucher HAP Contract and Tenancy Addendum are as follows:

- An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated violations of the lease or other "good cause" for termination of assistance, tenancy, or occupancy rights of a victim of abuse (section 8(o)(7)(C) of the U.S. Housing Act of 1937);
- Criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an affiliated individual of the tenant is the victim or threatened victim of that abuse (section 8(o)(7)(D)(i) of the U.S. Housing Act of 1937);

- Notwithstanding the VAWA restriction on admission, occupancy or terminations of occupancy or assistance, or any Federal, State or local law to the contrary, an Authority may terminate assistance to, or an owner or manager may “bifurcate” a lease, or otherwise remove a household member from a lease, without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members of others. This action may be taken without evicting, removing, terminating assistance to the occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be affected in accordance with the procedures prescribed by Federal, State and local law for the termination of leases or assistance under the Housing Choice Voucher Program (section 8(o)(7)(D)(ii) of the U.S. Housing Act of 1937);
- Nothing in section 8(o)(7)(D)(i) may be construed to limit the authority of a public housing agency, owner or manager, when notified, to honor court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up (section 8(o)(7)(D)(iii) of the U.S. Housing Act of 1937);
- Nothing in section 8(o)(7)(D)(i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant’s household, provided that the owner, manager or public housing agency does not subject an individual is or has been a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding stand than other tenants in determining whether to evict or terminate (section 8(o)(7)(D)(iv) of the U.S. Housing Act of 1937);
- Nothing in section 8(o)(7)(D)(i) shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than section 8(o)(7)(D)(i) for victims of domestic violence, dating violence, sexual assault, or stalking (section 8(o)(7)(D)(iv) of the U.S. Housing Act of 1937).

## Definitions

As used in VAWA:

Dating 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 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; and
- The frequency of interaction between the persons involved in the relationship

Sexual assault: means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

Stalking means:

- To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; 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:
  - that person,
  - a member of the immediate family of that person, or
  - the spouse or intimate partner of that person.

Affiliated individual means, with respect to an individual:

- A spouse, parent, brother, or sister, or child of that individual, or an individual to whom that individual stands in place of a parent; or

- Any individual, tenant, or lawful occupant living in the household of that individual.

Actual and imminent threat: Consists of a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: The duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

### Notification

The Authority acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under the Authority's policies. Therefore, if the Authority decides to deny admission to an applicant family, the Authority will include in its notice of denial:

- A statement of the protection against denial provided by VAWA;
- A description of Authority confidentiality requirements;
- A request that an applicant wishing to claim this protection submit to the Authority documentation meeting the specifications below with her or his request for an informal hearing.
- 

### VAWA Protections (24 CFR 5.2005)

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- The Authority must provide notice to HCV tenants of their rights under VAWA and this subpart, including the right to confidentiality and the exceptions; and
- The Authority must provide notice to owners and management agents of assisted housing, of their rights and obligations under VAWA and this subpart; and
- Owners and management agents of assisted housing administering an Office of Housing project-based HCV program must provide notice to HCV tenants of their rights and obligations under VAWA and this subpart.

### Limitations of VAWA protections:

- 1) Nothing in this section limits the authority of the Authority, owner, or management agent to evict a tenant or terminate assistance for a

lease violation unrelated to domestic violence, dating violence, sexual assault, or stalking, provided that the Authority, owner, or management agent does not subject such a tenant to a more demanding standard than other tenants in making the determination whether to evict, or to terminate assistance or occupancy rights.

- 2) Nothing in this section may be construed to limit the authority of an Authority, owner, or management agent to evict or terminate assistance to any tenant or lawful occupant if the Authority, owner, or management agent can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the public housing or HCV assisted property if that tenant or lawful occupant is not terminated from assistance. In this context, words, gestures, actions, or other indicators will be considered an "actual imminent threat" if they meet the standards provided in the definitions of this section.
- 3) Any eviction or termination of assistance, as provided in paragraph (d)(3) of this section, should be utilized by a Authority, owner, or management agent only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents.

### Documentation

#### Victim Documentation:

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking must provide documentation; (1) demonstrating the connection between the abuse and the unfavorable history, and (2) naming the perpetrator of the abuse. The documentation may consist of any of the following:

- A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, dating violence, sexual assault, or stalking;

- A record of a Federal, State, tribal, territorial or local law enforcement agency or court documenting the domestic violence, dating violence, sexual assault, or stalking
- 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 or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation;
- In accordance with VAWA, record of an administrative agency;
- In accordance with documentation from a mental health provider.

### Perpetrator Documentation

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

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

### Time Frame for Submitting Documentation

The applicant must submit the required documentation with his or her request for an informal hearing or must request an extension in writing at that time. If the applicant so requests, the Authority will grant an extension of ten (10) business days and will postpone scheduling the applicant's informal hearing until after it has received the documentation or the extension period has elapsed. If, after reviewing the documentation provided by the applicant, the Authority determines that the family is eligible for assistance, no informal hearing will be scheduled, and the Authority will proceed with admission of the

applicant family.

## Remedies Available to Victims

### Lease bifurcation:

Notwithstanding any Federal, State, or local law to the contrary, an Authority, owner, or management agent may bifurcate a lease, or remove a household member from a lease without regard to whether the household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be affected in accordance with the procedures prescribed by Federal, State, or local law for termination of assistance or leases under the relevant public housing, Housing Choice Voucher, and project-based programs.

### Court orders:

Nothing in this subpart may be construed to limit the authority of an Authority, owner, or management agent, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and to address the distribution of property among household members in a case where a family breaks up.

The Authority will refer families to services in Merced County that aid families who may be victims of domestic violence.

### Portability in the Housing Choice Voucher Program and VAWA:

In addition to the protections to victims of domestic violence which must be taken into consideration when an Authority contemplates terminating a family's participation in the Housing Choice Voucher Program, VAWA 2013 also amended section 8(r) of the U.S. Housing Act to provide an exception to the prohibition against a family moving under the portability provisions in violation of the lease. VAWA 2013 provides that the family may receive a voucher and move in violation of the lease under the portability procedure if the family has complied with all other obligations of the voucher program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonable believed he or she was imminently threatened by harm from further violence if he or she remained in

the assisted dwelling unit.

### **15-I.G. OPTION not to TERMINATE for MISREPRESENTATION**

If the family has misrepresented any facts that caused the Authority to overpay assistance, the Authority 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 Authority in full.

### **15-I.H. MISREPRESENTATION in COLLUSION with OWNER**

**[24 CFR 982.552]**

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, the Authority will deny or terminate assistance.

In making this determination, the Authority will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

### **15-I.I. MISSED APPOINTMENTS and DEADLINES [24 CFR 982.551]**

It is a family obligation to supply information, documentation, and certification as needed for the Authority to fulfill its responsibilities. The Authority schedules appointments and sets deadlines in order to obtain the required information. The obligations also require that the family allows the Authority to inspect the unit, and appointments are scheduled for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the Authority, may be sent a Notice of Proposed Termination of Assistance for failure to provide required information, or for failure to allow the Authority 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 Administrative Plan.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

- Eligibility for admissions
- Verification procedures
- Voucher issuance and briefings
- Housing Quality Standards inspections
- Recertification
- Appeals

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

- Medical emergency
- Any other emergency not including incarceration

### **15-I.J. APPROACH to TERMINATION of ASSISTANCE**

The Authority is required by regulation to terminate a family's assistance for certain actions or inactions of the family. For other types of actions or inactions of the family, the regulations give the Authority the authority to either terminate the family's assistance or to take another action. This part discusses the various actions the Authority may choose to take when it has discretion, and outlines the criteria the Authority will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notification to the family of the Authority's intent to terminate assistance.

### **15-I.K. METHOD of TERMINATION [24 CFR 982.552(a)(3)]**

Termination of assistance for a participant may include any or all of the following:

- Terminating housing assistance payments under a current HAP contract;
- Refusing to enter into a new HAP contract or approve a lease, or
- Refusing to process a request for or to provide assistance under portability procedures.

### **15-I.L. ALTERNATIVES to TERMINATION of ASSISTANCE**

#### Change in Household Composition:

As a condition of continued assistance, the Authority may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

#### Authority Policy:

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must

present evidence of the former family member's current address upon Authority request.

Repayment of Family Debts:

Authority Policy:

If a family owes amounts to the Authority, as a condition of continued assistance, the Authority will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the Authority of the amount owed. Repayment agreements may be established for a 12-month period but shall not exceed 24-months and will require the family to pay 25% of the debt owed prior to entering into the repayment agreement.

**15-I.M. CRITERIA for DECIDING to TERMINATE ASSISTANCE**

Evidence:

For criminal activity, HUD permits the Authority to terminate assistance if a preponderance of the evidence indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

Authority Policy

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

Preponderance of the evidence:

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

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

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

The Authority is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

Authority Policy:

The Authority will consider the following facts and circumstances when making its decision to terminate assistance:

- The seriousness of the case, especially with respect to how it would affect other residents' safety or property;
- The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act;
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or a victim of domestic violence, dating violence, sexual assault or stalking.

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

While a record of arrest(s) will not be used as the basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the Authority may obtain the police report associated with the arrest and consider the reported circumstances of the arrest.

The Authority may also consider:

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

- Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity;
- Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The Authority will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

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

If the family includes a person with disabilities, the Authority's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

Authority Policy:

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the Authority will determine whether the behavior is related to the disability. If so, upon the family's request,

the Authority will determine whether alternative measures are appropriate as a reasonable accommodation. The Authority will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance.

Procedure when Appointments are missed or Information is not provided

For most purposes in this Administrative Plan, the family will be given two (2) opportunities before being issued a Notice of Proposed Termination or denial for breach of a family obligation.

After issuance of the termination notice, if the family offers to correct the breach within the time allowed requesting a hearing, the notice may be

rescinded if the family offers to cure and the family does not have a history of non-compliance.

Notice of Denial of Assistance:

In any case where the Authority decides to deny eligibility of assistance to the family, the Authority must give the family written notice which states:

- The reason(s) for the denial of eligibility;
- A copy of the criminal record information, if applicable;
- The effective date of the denial of eligibility;
- 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 Authority.

If the Authority proposes to deny eligibility of assistance for criminal activity as shown by a criminal record, the Authority will provide the subject of the record with a copy of the criminal record or list of reports used to deny eligibility.

If the Notice of Proposed Ineligibility letter is returned to the Authority with a forwarding address, the Eligibility Specialist will make no more than one (1) attempts to forward the appointment letter to the new forwarding address.

**15-I.N. TERMINATION NOTICE:**

HUD regulations require Authority's to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates. As a good business practice, the Authority provides written notification to both owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

Authority Policy:

Whenever a family's assistance will be terminated, the Authority will send a written notice of termination to the family and to the owner. The notice will state the date on which the termination will become effective.

This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other Authority policies, or the circumstances surrounding the termination require.

#### Authority Policy:

When the Authority notifies an owner that a family's assistance will be terminated.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the Authority sends to the family must meet the additional HUD and Authority notice requirements to require Authority's to provide notice of VAWA rights and the HUD 5382 form when an Authority terminates a household's housing benefits.

Whenever the Authority decides to terminate a family's assistance because of the family's action or failure to act, the Authority will request in writing that a family member wishing to claim protection under VAWA notify the Authority within 10 days.

#### Other Notice Requirements:

Other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, the "AUTHORITY" must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record [24 CFR 982.553(d)(2)];
- If immigration status is the basis of a family's termination, the special notice requirements must be followed.

### **15.I.O. TERMINATION of TENANCY by the OWNER:**

Termination of an assisted tenancy is a matter between the owner and the family; the Authority is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

**15-I.P. Grounds for Owner Termination of Tenancy:**  
**[24 CFR 982.310, 24CFR 5.2005(c)]**

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations:

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking and the victim is protected from eviction by the Violence against Women Act of 2013. A serious lease violation includes failure to pay rent or other amounts due under the lease.

However, the Authority's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law:

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse:

The owner may terminate tenancy during the term of the lease if any covered person—meaning any member of the household, a guest, or another person under the tenant's control—commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises;
- Any drug-related criminal activity on or near the premises.

In the case of criminal activity directly related to domestic violence, dating violence, sexual assault or stalking, if the tenant or an affiliated individual is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy.

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

#### Evidence of Criminal Activity:

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking.

#### Other Good Cause:

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit;
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

<b>Statement Of Family Obligations</b>
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The following is a listing of a participant family's obligations under the HCV program:

1. The family must supply any information that the Housing Authority 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 Housing Authority 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 (in accordance with 24 CFR 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 a Housing Quality Standards (HQS) breach caused by the family (in accordance with 24 CFR 982.404(b));
6. The family must allow the Housing Authority 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 Housing Authority before the family moves out of the unit or terminates the lease upon notice to the owner;
9. The family must promptly give the Housing Authority a copy of any owner eviction notice;
10. The family must use the assisted unit for residence by the family. The must be the family's only residence;
11. The composition of the assisted family residing in the unit must be approved by the Housing Authority. The family must promptly inform the Housing Authority of the birth, adoption or court-awarded custody of a child. The family must request Housing Authority approval to add any other family member as an occupant of the unit;
12. The family must promptly notify the Housing Authority if any family member no longer resides in the unit;
13. If the Housing Authority has given the family approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or Housing Authority 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 the members of the family;
15. The family must not sublease or sublet 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 Housing Authority to verify that the family is living in the unit, or relating to family absence from the unit, including any Housing Authority requested information or certification on the purposes of family absence. The family must cooperate with the Housing Authority

for this purpose. The family must promptly notify the Housing Authority 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 any Federal housing programs;
20. 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;
21. The household members may not engage in drug-related criminal activity or other violent 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;
22. An assisted family, or members of the family, may not receive Section 8 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;
23. The family must not engage in threatening, abusive, or violent behavior toward PHA personnel.

## CHAPTER 16

### OWNERSHIP CHANGES RESPONSIBILITIES AND RESTRICTIONS

[24 CFR 982.54, 982.306, 982.453]

#### OVERVIEW

The Authority is responsible for ensuring that participating families have access to all types and ranges of affordable housing its jurisdiction, particularly housing outside areas of poverty or minority concentration.

A critical element is developing relationships with Owners willing to participate in the HCV program

For this reason, the Authority will continue to:

- Develop professional ties and working relationships with owners and landlords;
- Participate and promote with neighborhood organizations who have interests in housing very -low income families;
- Educate more people about the program, required equal opportunities and nondiscrimination rules. Provide information on prohibited Fair Housing and Discrimination actions.

In an effort to assist families in their housing search, the Authority encourages landlords and Owners to list available rentals thru an online service using [affordablehousing.com](http://affordablehousing.com).

By request, the Authority provides families with a printout of these listings to assist in the family's search. Although the Authority does not maintain a list of owners that are "pre-qualified" to participate in the program, owners may inform the Authority of their willingness to participate with the program and lease a unit to an eligible HCV family.

## **16-I.A. OWNER RESPONSIBILITIES [24 CFR 982.452]:**

Under the HCV program, owners are responsible to follow the following regulations:

- Complying with the owner's obligations under the HAP contract and enforcement of the lease;
- Perform all management duties of the rental unit, to include the selecting and suitability of a voucher-holder to lease the unit;
- Maintaining the unit in accordance with the Housing Quality Standards (HQS), to include providing their own routine and non-routine maintenance as needed at the unit;
- Complying with equal opportunity requirements;
- Provide the Authority requested information required under the HAP contract;
- Collecting the security deposit, the tenant rent, and any charges for unit damage by the family;
- Enforcement of their tenant obligations under the dwelling lease;
- Paying for utilities and services that are not the responsibility of the family as specified in the lease;
- Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person [24 CFR 100.203];
- Complying with the Violence against Women Reauthorization Act of 2013 (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family (see 24 CFR Part 5, Subpart L; 24 CFR 982.310(h)(4); and 24 CFR 982.452(b)(1)).

## **16-I.B. OWNER QUALIFICATIONS**

The Authority will not formally approve an owner to participate in the HCV program. There are a number of criteria where the Authority may deny

approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. No owner has a right to participate in the HCV program [24 CFR 982.306(e)].

Owners Barred from Participation [24 CFR 982.306(a) and (b)]

The Authority must not approve a request for assisted tenancy with an owner who has been debarred, suspended, or subject to a limited denial of participation under.

When directed by HUD, the Authority must not approve an assisted tenancy if:

- The federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements, and such action is pending; or
- A court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements.

**16.I.C. OWNER ACTIONS that may RESULT in DISAPPROVAL of a TENANCY REQUEST [24 CFR 982.305(c)]**

Authority approval of assisted tenancy [24 CFR 982.305]:

(1) Program requirements.

The Authority may not give approval for the family of the assisted tenancy, or execute a HAP contract, until the Authority has determined that all the following meet program requirements:

- The unit is eligible;
- The unit has been inspected by the Authority and passes HQS;
- The lease includes the tenancy addendum;
- The rent to owner is reasonable; and
- At the time a family initially receives tenant-based assistance for occupancy of a dwelling unit, and where the gross rent of the unit exceeds the applicable payment standard for the family, the family share does not exceed 40 percent of the family's monthly adjusted income.

(2) 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 Authority has inspected the unit and has determined that the unit satisfies the HQS;
- The landlord and the tenant have executed the lease (including the HUD-prescribed tenancy addendum, and the lead-based paint disclosure information as required in § 35.92(b) of this title); and
- The Authority has approved leasing of the unit in accordance with program requirements.
- The Authority must inspect the unit, determine whether the unit satisfies the HQS, and notify the family and owner of the determination.

(3) When HAP contract is executed:

- The Authority must use best efforts to execute the HAP contract before the beginning of the lease term;
- The HAP contract must be executed no later than 60 calendar days from the beginning of the lease term;
- The Authority may not pay any housing assistance payment to the owner until the HAP contract has been executed.

If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, the Authority will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of 60 days).

A HAP contract executed after the 60 day period is void, and the Authority may not pay any housing assistance payment to the owner.

(4) Notice to family and owner:

After receiving the family's request for approval of the assisted tenancy, the Authority must promptly notify the family and owner whether the assisted tenancy is approved.

(5) Procedure after Authority approval:

If the Authority has given approval for the family of the assisted tenancy, the owner and the Authority will execute the HAP contract.

The Authority must not approve a unit if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the Authority determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities. This restriction against Authority approval of a unit only applies at the time a family initially receives tenant-based assistance for occupancy of a particular unit, but does not apply to Authority approval of a new tenancy with continued tenant-based assistance in the same unit.

If the Authority disapproves a request for tenancy on an owner currently under a HAP contract, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units.

It is not a given right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party.

HUD regulations permit the Authority to disapprove Owners participation as a Landlord receiving HAP, and may disapprove future request for tenancies for any of (not limited to) the reasons outlined below.

Authority Policy:

The Authority will disapprove the owner for the following reasons:

- The Authority has been informed or instructed by HUD or other agency directly related, that the owner has been disbarred, suspended, or subject to a limited denial of participation;
- The Authority has been informed 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;
- The Authority has been informed that a court or administrative agency has determined that the owner 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 Authority 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 Authority 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 HAP contract under Section 8 of the 1937 Act (42 U.S.C. 1437(f));
- 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;
- Records reflect that 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 and/or has a documented history or practice of renting units that fail to meet State or local housing codes;
- 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 a history or practice of failing to terminate tenancy of tenants of units assisted under the Housing Choice Voucher Program 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 owners, other residents, employees of the Authority other persons engaged in management;

- 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
- Engages in drug-related criminal activity or violent criminal activity.

In considering whether to disapprove owners for any of the discretionary reasons listed above, the Authority will consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, the Authority may, on a case-by-case basis, choose to approve an owner.

Leasing to Relatives [24 CFR 982.306(d)]:

The Authority must not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The Authority may make an exception as a reasonable accommodation for a person with a disability. accommodation for a family member with a disability.

The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit.

Current contracts on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

Conflict of Interest [24 CFR 982.161]:

The Authority must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

- Any present or former member or officer of the Authority (except a participant commissioner);
- Any employee of the Authority, or any contractor, subcontractor or agent of the Authority, who assists with change or implantation of policy or who influences decisions with respect to the programs;

- Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs;
- Any member of the Congress of the United States;
- HUD may waive the conflict of interest requirements, except for members of Congress, for good cause. The Authority must submit a waiver request to the appropriate HUD Field Office for determination;

Any waiver request submitted by the Authority must include the following:

- Complete statement of the facts of the case;
- Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;
- Analysis of and statement of consistency with state and local laws. The local HUD office, the Authority or each party may conduct this analysis.

Where appropriate, an opinion by the state's attorney general should be obtained;

- Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;
- Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;
- If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;
- If the case involves a public official or member of the governing body, explanation of his/her duties under state or local law, including reference to any responsibilities involving the HCV program;
- If the case involves employment of a family member by the Authority or assistance under the HCV program for an eligible Authority employee, explanation of the responsibilities and duties

- of the position, including any related to the HCV program;
- o If the case involves an investment on the part of a member, officer, or employee of the Authority, description of the nature of the investment, including disclosure/divestiture plans.

Legal Ownership of Unit:

The following represents Authority Policy on legal ownership of a dwelling unit to be assisted under the HCV program.

Owners must provide the current address of their residence (not a Post Office box). If families lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address.

Owners must provide a Federal Employer Tax Identification number or Social Security number. The owner must provide a home telephone number and business number if applicable. A driver's license or other photo identification may be requested.

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.

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. The Housing Authority may waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

Where the Authority has requested a conflict of interest waiver, the Authority may not execute the HAP contract until HUD has decided on the waiver request.

In considering whether to request a conflict of interest waiver from HUD, the Authority will consider certain factors such as consistency of the waiver with state and local laws, the existence of alternative housing available to families, the individual circumstances of a particular family, the specific duties of individuals whose positions present a possible conflict of interest, the nature of any financial investment in the property and plans for

disclosure/divestiture, and the possible appearance of impropriety.

**16-I.D. CHANGE in OWNERSHIP:**

Assignment of the HAP Contract [HUD-52641]:

The HAP contract cannot be assigned to a new owner without the prior written consent of the Authority.

The Authority will place the unit HAP on hold upon receiving information that the property has changed ownership and contact the owner on record to confirm the information received.

Owners under a HAP contract must notify the Authority in writing when there are changes in the legal ownership of a unit. The owner must supply all information for proof of change as requested by the Authority.

When a change of ownership occurs, the new Owner(s) inherits the HAP contract of the previous Owner in addition to the terms of the Lease and tenancy agreement with both the participant and Authority. In the event the new Owner wishes to vacate the current participants tenancy, he/she must serve a minimum of a 90-Day notice to vacate upon the tenant and provide the Authority with a copy of such notice.

Before any HAP will be paid to a new owner for an assisted unit, the new owner must provide the Authority with documentation to support the change in ownership. Acceptable documentation may be the filed deed, final sale of the property documents, or current tax bill reflecting new owners name.

Authority Policy

Assignment of the HAP contract will be approved only if the new owner is approved and has provided all of the necessary paperwork to make the change effective to become an owner under the HCV program.

The Authority may deny approval of assignment of the contract, for any of the reasons listed in "Disapproval of Owner" in this chapter.

The Authority will process a change of ownership only upon receipt of all required documents reflecting change of ownership. The Authority requires the written request of the new owner be accompanied by a copy of the recorded deed or other document showing the transfer of title and the Federal

Tax Identification number or Social Security number of the new owner.

In the event the new owner does not want an assignment of the existing HAP contract, and would like the family to vacate the unit, a 90-Day Notice to Vacate must be served to the current family occupying the unit, with a copy provided to the Authority. The Authority will terminate the HAP contract with the old owner effective the first day of the following month from when the change was reported.

If an owner opts to continue renting to the family, they may either begin receiving HAP under the existing contract or may offer the family a new assisted lease to sign. The family may elect to enter into the new lease or move to another unit.

Any changes to the HAP contract that affect the amount of rent being charged or services and appliance responsibility will require the new owner to serve the family with a minimum 60-Day Notice of Rent Change and enter into a new HAP contract with the Authority.

The Authority will not be responsible to pay retroactively to the purchase date or transfer of property sale date if the delay was caused by untimely reporting by either the previous or current landlords.

## **CHAPTER 17**

### **PROGRAM INTEGRITY**

[24 CFR 792.101 to 792.204, 982.54]

#### **OVERVIEW**

This chapter outlines the Authority's policies for the prevention, detection and investigation of program abuse and fraud. HUD conservatively estimates that 600 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 Authority is committed to ensuring 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 Authority will take all steps necessary to prevent fraud, waste and mismanagement so that program resources are utilized judiciously.

All allegations of unauthorized persons, unreported income, or other program violations may 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.

## CHAPTER 17

### **17-I.A. CRITERIA for INVESTIGATION of SUSPECTED ABUSE and FRAUD**

Under no circumstance will the Authority undertake an inquiry or an audit of an applicant or participating family arbitrarily. The Authority's expectation is that applicants and participating families will comply with HUD requirements, provisions of the voucher and other program rules. Authority staff will make every effort (formally and informally) to orient and educate all families in order to avoid unintentional violations. However, the Authority 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 Authority's attention, to investigate such claims.

The Authority will initiate an investigation of a participating family only in the event of one or more of the following circumstances:

- Referrals, Complaints or Tips:

The Authority will follow up on referrals from other agencies, companies or persons which are received by mail, 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 either be kept in the participant's file, or in a separate work file. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. The allegation may be forwarded to the District Attorney's office for their investigation;

- Internal File Review:

A follow-up will be made if Authority staff discovers (as a function of a recertification, an interim redetermination, or a quality control review) information or facts which conflict with previous file data, the Authority's knowledge of the family, or is discrepant with statements made by the family;

- Verification of Documentation:

A follow-up will be made if the Authority receives independent verification or documentation which conflicts representations in the family's file (such as public record information or credit bureau reports, or reports from other agencies).

### **17-I.B. STEPS the AUTHORITY WILL TAKE to PREVENT PROGRAM ABUSE**

The Authority will utilize various methods and practices (listed below) to prevent program abuse, noncompliance, 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.

#### Things You Should Know (HUD-1140-OIG):

This program integrity bulletin (created by HUD's Inspector General) will be furnished and explained to all applicants to promote understanding of program rules, and to clarify the Authority's expectations for cooperation and compliance.

#### Briefing Session:

Mandatory orientation sessions will be conducted by the Authority staff for all prospective program participants, either prior to or upon issuance of a voucher. At the conclusion of all Program Orientation Sessions, families receiving a voucher are required to sign HUD Form 52646 Housing Choice Voucher. All households are required to sign the Obligations of the Family for both the Housing Choice Voucher Program and Project Based Voucher Program to confirm and acknowledge that all rules and pertinent regulations were explained to them.

#### Review and Explanation of Forms:

Staff is available to explain all required forms and must review the contents of all recertification documents prior to signature.

The Authority will routinely provide information and answer questions as a part of every recertification interview in order to clarify any confusion pertaining to program rules and requirements.

### **17-I.C. STEPS the AUTHORITY WILL TAKE to DETECT PROGRAM ABUSE**

The Authority staff will maintain a high level of alertness to indicators of possible abuse and fraud by assisted families.

- Quality Control File Reviews:

Prior to initial certification, and at the completion of all subsequent recertification, each participant file will be reviewed. 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.
  - Ratio between reported income and expenditures.
  - Review of signatures for consistency with previously signed file documents.
  - All forms are correctly dated and signed.
- Observation:

The Authority will maintain high awareness of circumstances which may indicate program abuse or fraud, such as unauthorized persons residing in the household and unreported income. Observations will be documented in the family's file;
  - Public Records:

Bulletins may be reviewed by Authority staff;
  - 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 in order to detect unreported wages or unemployment compensation benefits;
  - Enterprise Income Verification (EIV) system:

The Authority will verify tenant employment and income information during mandatory reexaminations of family composition and income; and reduce administrative and subsidy payment errors in accordance with 24 CFR §5.236 and administrative guidance issued by HUD. The Authority has established a procedure for EIV use;
  - 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 Authority wherein unreported income sources are disclosed;
    - When a participant's expenditures exceed their reported income and no plausible explanation is given.

### **17-I. D. AUTHORITY'S HANDLING of ALLEGATIONS of POSSIBLE ABUSE**

The Authority staff will encourage all participating families to report suspected abuse. 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 Authority will not follow up on allegations which are vague or otherwise nonspecific. Only allegations which contain one or more independently verifiable facts will be reviewed.

#### **File Review:**

An internal file review will be conducted to determine:

- If the subject of the allegation is a current voucher holder of the Authority 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 Authority 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.

#### **Conclusion of Preliminary Review:**

If at the conclusion of the preliminary file review, there are facts contained in the allegation which conflict with file data, and the facts are independently verifiable, the Authority will initiate an investigation to determine if the allegation is true or false.

### **17-I.E. OVERPAYMENT to OWNERS / FRAUD**

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.

If the Authority determines that the owner has retained housing assistance or claim payments the owner is not entitled to, the Authority 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 Authority will:

- Require the owner to pay the amount in full within thirty (30) days;
- Pursue collections through a collection agency;
- Restrict the owner from future participation.

**17-I.F. HOW THE AUTHORITY WILL INVESTIGATE ALLEGATIONS of ABUSE or FRAUD**

If the Authority determines that an allegation or referral warrants a follow-up, the Authority will conduct the investigation.

The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below.

In all cases, the Authority will secure the written authorization from the program participant for the release of information.

- Employment Income Verification (EIV):

The Authority will verify tenant employment and income information during mandatory reexaminations of family composition and income; and reduce administrative and subsidy payment errors in accordance with 24 CFR §5.236 and administrative guidance issued by HUD. The Authority has established a procedure for EIV use;

- Credit Bureau Inquiries (CBI):

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 Authority's review;

- Other Agencies:

Investigators, case workers or representatives of other benefit agencies may be contacted;

- Public Records:

If relevant, the Authority will review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are: real estate, marriage, and 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 Authority may discuss the allegation (or details thereof) with the head of household or family member by scheduling an appointment at the Authority office. A high standard of courtesy and professionalism will be maintained by the Authority staff person who conducts such interviews. Under no circumstance will inflammatory language, accusation, or any unprofessional conduct or language be tolerated by the Authority. 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 Authority 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).

### **17-I.G. PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED by the AUTHORITY**

Documents and other evidence obtained by the Authority 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. Such cases under review will not be discussed among Authority staff unless they are involved in the process, or have information which may assist in the investigation.

### **17-I.H. CONCLUSION of the AUTHORITY'S INVESTIGATIVE REVIEW**

At the conclusion of the investigative review, the reviewer will report the findings to the Director of Housing Programs or his or her designee. It will be established if a violation has occurred, not occurred, or is inconclusive.

The following will be taken into consideration:

- The type of violation (procedural noncompliance, fraud);

- Whether the violation was intentional or unintentional;
- What amount of money (if any) is owed by the family;
- If the family is eligible for continued occupancy.

Once a program violation has been documented, the Authority will propose the most appropriate remedy based upon the type and severity of the violation.

### **17-I.I. EVALUATION OF THE FINDINGS**

If it is determined that a program violation has occurred, the Authority will review the facts to determine:

- The type of violation (procedural, non-compliance, fraud);
- Whether the violation was intentional or unintentional;
- What amount of money (if any) is owed by the family.

If the family is eligible for continued occupancy, or should be denied admission to the program.

#### Action Procedures for Violations Which Have Been Documented:

Once a program violation has been documented, the Authority will propose the most appropriate remedy based upon the type and severity of the violation. If the Authority determines that the violation whether procedural, non-compliance, or fraud occurred and that termination action needs to be taken, the Authority will do so in a timely manner.

The following examples are if the family is allowed to remain on the program.

#### Procedural Non-compliance:

This category applies when the family "fails to" observe a procedure or requirement of the Authority but does not misrepresent a material fact, and there are no retroactive assistance payments owed by the family.

#### Examples of non-compliance violations are:

- Failure to appear at a pre-scheduled appointment;

- Failure to return verification in time period specified by the Authority;

Warning 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 Authority if the procedure or obligation is not complied with by the date specified by the Authority;
- The consequences of repeated (similar) violations.

Procedural Non-compliance - Overpaid Assistance:

When the family owes money to the Authority for failure to report changes in income or assets, the Authority will issue a Notice of Proposed Termination letter.

This notice will contain the following:

- A description of the violation;
- The right to disagree and to request an informal hearing within 14 calendar days;

Instructions for the request of such hearing:

- The hearing officer will meet with them to discuss and explain the family obligation or program rule which was violated;
- The hearing officer will complete a Hearing Summary, mail one copy to the family and retain a copy in the family's file

Participant Fails to Comply with Notice:

If the family fails to comply with the Authority's notice, and a family obligation has been violated, the Authority will follow through with termination of assistance.

### 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 Authority, the Authority 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, Housing Choice Voucher, family obligations, or personal declaration(s) are adequate to establish knowledge of wrong-doing.

### The participant willfully violated the law:

Any of the following circumstances will be considered adequate to demonstrate willful intent:

- An admission by the participant to Authority staff or others of the misrepresentation, illegal action or omission;
- That the act was done repeatedly;
- If a false name or Social Security number was used;
- That the participant omitted material facts which were known to him/her (e.g., employment of self or another household member);
- That the participant falsified, forged or altered documents;
- That the participant uttered and certified to statements at an interim redetermination which were later independently verified to be false.

### Dispositions of Cases Involving Misrepresentations:

In all cases of misrepresentations involving efforts to recover monies owed, the Authority will pursue, depending upon its evaluation of the criteria stated above, one or more of the following actions:

### Criminal Prosecution:

If the Authority has established criminal intent, and the case meets the criteria for prosecution, the Authority may refer the case to the local State or District Attorney, notify HUD's Office of the Inspector General (OIG), and terminate rental assistance.

### Administrative Remedies:

The Authority 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.

### Ethical Standards for Employees:

No employee of the Authority shall have any employment, or engage in any business or commercial transaction, or engage in any professional activity, or incur any obligation in which directly or indirectly he or she would have an interest that would impair his or her independence of judgment or action in the performance of his or her official duties or that would be in conflict with the performance of his or her official duties.

No employee shall have or enter into any contract with any person who has or enters into a contract with the Authority unless:

- The contract between the person and the Authority is awarded pursuant to competitive bidding procedures and/or purchasing policies as outlined in regulations promulgated by the U.S. Department of Housing and Urban Development (HUD), state law, or the Housing Authority of the County of Merced's Procurement Policy; or
- There shall be no preferential treatment given by an employee of the Authority acting in performance of his or her official duties to any person, agency or organization. Employees, Agents and Commissioners will be required to disclose whether he/she has any relationship or interest with vendors of the Authority.

- No Authority employee shall solicit any gift or consideration of any kind.
- No Authority employee shall disclose without proper authorization non-public information or records concerning any aspects of the operation of the Authority, nor shall he or she use such information to the advantage or benefit of himself, herself, or any other person.

This shall include records maintained on enrollees of the Authority, for whom a properly executed release of information form shall be obtained and kept in the client file.

The release of any information relative to enrollees of the Authority shall be done pursuant to government regulations allowing the release of information among government agencies or agencies receiving government subsidy, shall be done following prescribed methods of requesting and transmitting such information, and shall be done with full knowledge of the enrollee except in those cases where through action of law the enrollee's knowledge is not required.

- No Authority employee shall have an interest in a contract between any person and the Authority, except that this provision shall not apply if the contract was entered into prior to the employee's hire by the Authority.

**17-I.J. MANDATED USE of the ENTERPRISE INCOME VERIFICATION (EIV) SYSTEM [24 CFR 5.233]**

The EIV System is a web-based application, which provides the Authority with employment, wage, unemployment compensation and social security benefit information of tenants who participate in the Public Housing and various Section 8 programs under the jurisdiction of the Office of Public and Indian Housing (PIH).

Information in EIV is derived from computer matching programs initiated by HUD with the Social Security Administration (SSA) and the U.S. Department of Health and Human Services (HHS), for all program participants with valid personal identifying information (name, date of birth (DOB), and Social Security number (SSN)) reported on the form HUD-50058.

The Authority is required to use the EIV system in its entirety to verify tenant employment and income information during mandatory reexaminations of family composition and income; and reduce administrative and subsidy payment errors in accordance with 24 CFR §5.236 and administrative guidance issued by HUD. The Authority has established a procedure for EIV use.

## **17-I.K. ENTERPRISE INCOME VERIFICATION (EIV) USER'S RESPONSIBILITIES**

The EIV user's responsibilities include the following:

- Mandatory security awareness training at least annually;
- Complete and sign Rules of Behavior and User Agreement;
- Avoid leaving EIV information on the computer screen unattended;
- EIV data generated from the printer must be retrieved immediately and shall not be left lying unattended;
- Each user is required to have his or her own User ID and password;
- Maintain the security of user accounts by not disclosing own password;
- Inform the Security Officer when EIV access is no longer needed;
- Report to the Director of Housing Programs or the Security Officer and/or the HUD Security Officer immediately regarding any suspected violation or breach of system security

### Record Keeping and Control:

The following HUD forms shall be used to ensure the security of EIV data:

- Authority's EIV Access Authorization Form;
- Rules of Behavior and User Agreement;
- Security Awareness Training Attendance Sheet

## CHAPTER 18

### OWNER OR FAMILY DEBTS TO THE AUTHORITY

[24 CFR 982.552]

#### OVERVIEW

This chapter describes the Authority'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 Authority'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 Authority'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 Authority, the Authority will make every effort to collect it. The Authority 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;
- Income tax set-off programs;
- Referral to Inspector General's Office
- Referral to the District Attorney

## **CHAPTER 18**

### **18-I.A. PAYMENT AGREEMENT for FAMILIES [24 CFR 982.552 (c) v-ii]**

A payment agreement as used in this Administrative Plan is a document entered into between the Authority and a person who owes a debt to the Authority. It is similar to a promissory note, but contains more details regarding the nature of the debt, the terms of payment, any special provisions of the agreement, and the remedies available to the Authority upon default of the agreement. The Repayment Agreements may be instigated by the Authority or by the District Attorney's fraud/prosecution investigation.

The Authority will prescribe the terms of the payment agreement, including determining whether to enter into a payment agreement with the family based on the circumstances surrounding the debt to the Authority.

There are some circumstances in which the Authority will not enter into a repayment agreement. They are:

- If the family already has a payment agreement in place;
- If the Authority determines that the family committed program fraud.

The maximum length of time the Authority will enter into a payment agreement with a family is twelve (12) to twenty-four (24) months with approval of the Director of Housing Programs or Executive Director.

The maximum amount for which the Authority will enter into a payment agreement with a family is \$2,500.00. If a family has two or more debts owing the Authority, they cannot exceed a total of \$2,500.00. The Authority will review the total payment amount and the family's ability to pay to determine the length of time allowed for payment. Prior to the execution of the payment agreement, the family must pay a minimum of 25% of the balance owed to the Authority. The down payment requirement is only offered on balances over 100.00 and the Authority will only enter repayment agreement if:

- The maximum length of time the Authority will enter into a repayment agreement with a family is 12 months.
- There is a \$50.00 minimum monthly amount, other than the repayment agreement cannot exceed 24 months in duration with approval of the Director of Housing Programs or the Executive Director.

- The Authority 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 payment agreement is breached or if the family refuses to sign a payment agreement. Whether the amount owing is Housing Assistance Payment (HAP) repayment for late reporting, or fraud decision that has been overturned in the informal hearing process. The family will be given all opportunities for an informal hearing process, or court process.
- Any reference to amounts owing by the family include any amounts owed to any federal housing program with any agency.

If the family wishes to relocate within Merced County, the tenant must have a history of keeping consistently current with their payments before they will be approved to move. Otherwise, they must pay off the remaining balance before they will be approved to move (for non-fraud issues). In the case of fraud, the tenant must have the balance paid off before moving.

If the family wishes to relocate outside Merced County, they must first pay off any debt owed to the Authority.

Late Payments:

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 payment agreement is in arrears, and the family has not contacted or made arrangements with the Authority, the Authority will:

- Require the family to pay the balance in full;
- Pursue civil collection of the balance due; or
- Terminate the housing assistance.

Payment Agreements Instigated by District Attorney and/or Prosecution:

Payment Agreements may be instigated by the District Attorney's office after investigative services by their office. The Payment 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 Authority and HUD. Payment 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 may refer the case back to our locality if they prefer that the local District Attorney's office pursue prosecution and payment.

If the client or owner do not repay the amounts as indicated in the agreement, the Authority and the District Attorney's office will take action to prosecute, if not already done so.

The amount of dollars owed to the 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 HAP 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.

Guidelines for Payment Agreements [24 CFR 982.552(b)(8)]:

The payment agreement will be executed between the Authority and the head of household, spouse, co-head and all household members age 18 years of age and older.

- The payment agreement must be executed by the Director of Housing Programs or his or her designee;
- Payments may only be made by money order or cashier's check;
- The payment agreement will be in default when a payment is delinquent by the 10th calendar day of the month. A payment agreement will be considered to be in default when it is in arrears for thirty (30) days. The family's assistance may be terminated unless the Authority receives the balance of the payment agreement in full within thirty (30) days of the termination notice, and if requested with reasonable notice from the family, verification of the hardship, and the approval of the Director of Housing Programs or his/her designated staff.

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 Director of Housing Programs or his or her designee.

The family will not be approved to move until the debt is paid in full, unless the move is the result of one of the following causes and the payment agreement is current:

- Family size exceeds the Housing Quality Standards (HQS) maximum occupancy standards;
- The HAP contract is terminated due to owner non-compliance or opt-out;
- A natural disaster;
- Foreclosure of unit.

**18-I.B. 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 HCV program funds in violation of HCV program requirements.

The Authority may terminate the family for program fraud, or it may allow the family to enter into a repayment agreement.

Program Fraud:

Owners and families who owe money to the Authority due to program fraud will be required to pay in accordance with the payment procedures for program fraud below.

If an owner or family owes an amount which equals or exceeds \$5,000 as a result of program fraud, the case will be referred to the Inspector General. Where appropriate, the Authority will refer the case for criminal prosecution.

Payment Procedures for Program Fraud:

Families who commit program fraud or untimely reporting of increases in income will be subject to the following:

- Sign a repayment agreement as outlined in the "Guidelines for Payment Agreements" in this chapter.

### Additional Monies Owed:

If the family already has a payment agreement in place and incurs an additional debt to the Authority, the Authority may enter into more than one payment agreement with the family, depending on their payment history.

### **18-I.C. OWNER DEBTS to THE AUTHORITY [24 CFR 982.453(B)]**

If the Authority determines that the owner has retained Housing Assistance Payments the owner is not entitled to, the Authority may reclaim the amounts from future Housing Assistance Payments owed to the owner for any units under contract.

If future Housing Assistance Payments are insufficient to reclaim the amounts owed, the Authority may take one or more of the following options:

- Require the owner to pay the amount in full within thirty (30) days;
- Enter into a payment agreement with the owner for the amount owed;
- Pursue collections through a collection agency;
- Restrict the owner from future participation.

### **18-I.D. WRITING OFF DEBTS:**

Debts will be written off if:

- The debtor's whereabouts are unknown and the debt is more than three (3) years old;
- A determination is made that the debtor is judgment proof;
- The debtor is deceased;
- The debtor is confined to an institution indefinitely or for more than five (5) years;
- The amount is less than \$5,000 and the debtor cannot be located.

## **CHAPTER 19**

### **REVIEWS, HEARINGS, COMPLAINTS AND APPEALS**

#### **OVERVIEW**

The informal hearing requirements defined in HUD regulations are applicable to participating families who disagree with an action, decision, or inaction of the Authority. This chapter describes the policies, procedures and standards to be used when families disagree with an Authority decision. The procedures and requirements are explained for preference denial meetings, informal reviews and hearings. It is the policy of the Authority to ensure that all families have the benefit of all protections due to them under the law,

## **CHAPTER 19**

### **19-I.A. COMPLAINTS to the AUTHORITY**

The Authority will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. The Authority requires that complaints other than Housing Quality Standards (HQS) violations be put in writing (HQS complaints may be reported by telephone).

#### **Categories of Complaints:**

##### **A) Complaints from Families and Owners**

Complaints received from families or owners due to the action or inaction of the Authority will be referred to the Eligibility Specialist. If a complaint is not resolved, it will be referred to the Director of Housing Programs.

##### **B) Complaints from Staff**

If a staff person reports an owner or family either violating or not complying with program rules, the complaint will be referred to the Director of Housing Programs.

##### **C) Complaints from the General Public**

Complaints or referrals from persons in the community in regard to the Authority, a family or an owner will be referred to the Eligibility Specialist.

### **19-I.B. PREFERENCE DENIALS**

When the Authority 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 an informal review with Authority staff to discuss the reasons for the denial and to dispute the Authority 's decision.

The person who conducts the informal review will be the Eligibility Specialist or Director of Housing Programs or his or her designee.

### **19-I.C. INFORMAL REVIEW PROCEDURES for APPLICANTS**

[24 CFR 982.54(d) (12), 982.554]

Reviews are provided for applicants who are denied assistance before the effective date of the Housing Assistance Payment (HAP) Contract. The exception is that when an applicant is denied assistance for citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

When the Authority 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) they are ineligible;
- The procedure for requesting a review if the applicant does not agree with the decision; and
- The time limit for requesting a review.

When denying admission for criminal activity as shown by a criminal record, the Authority will provide the subject of the record and the applicant with a copy of the criminal record upon which the decision to deny was based.

The Authority must provide applicants with the opportunity for an informal review of decisions denying:

- Qualification for preference;
- Listing on the Authority 's waiting list;
- Issuance of a voucher;
- Participation in the program;
- Assistance under portability procedures

Informal reviews are not required for established policies and procedures and Authority determinations such as:

- Discretionary administrative determinations by the Authority;
- General policy issues or class grievances;
- A determination of the family unit size under the Authority subsidy standards;
- Refusal to extend or suspend a voucher;
- Authority determination not to grant approval of the tenancy
- Determination that unit is not in compliance with HQS;
- Determination that unit is not in accordance with HQS due to family size or composition.

## Procedure for Informal 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 ten (10) days from the date of the Authority's notification of denial of assistance. The informal review will be scheduled and held within a reasonable time 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 Authority may require verification of such "good cause," and any verification and documentation that the Authority 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 Authority 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.

The review may be conducted by:

- A staff person who is at the management level or above;
- An independent contractor qualified by the Authority;
- An Authority employee;
- An individual from outside the Authority.

The review may be conducted by mail and/or telephone if acceptable to both parties. A notice of the review findings will be provided in writing to the applicant within fourteen (14) days after the review. It shall include the decision of the review officer, and an explanation of the reasons for the decision.

The applicant will be given the opportunity of presenting oral or written objections to the decision. Both the Authority and the family may present evidence and witnesses. The family may use an attorney or appropriate representative to assist them at its own expense.

All requests for a review, supporting documentation, and a copy of the final decision will be retained in the family's file.

**19-I.D. INFORMAL HEARING PROCEDURES** [24 CFR 982.555(a-f), 982.54(d)  
(13)]

HUD allows the Authority the following options when scheduling an informal hearing:

- Hearing may be conducted in person;
- telephonically; or
- “remote hearing” through video-teleconferencing such as GoToMeeting, or other virtual platforms, as designated by the Authority.

If the participant does not have proper technology access which will allow the individual to fully participate, then the remote hearing should be postponed, or an in-person alternative must be provided.

The Authority must provide participants with the opportunity for an Informal Hearing for decisions related to any of the following Authority determinations:

When the Authority makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing.

The Authority will give the family prompt notice of such determinations which will include:

- The proposed action or decision of the Authority;
- The date the proposed action or decision will take place;
- The family's right to an explanation of the basis for the Authority's decision;
- The procedure for requesting a hearing if the family disputes the action or decision;
- The time limit for requesting the hearing;
- To whom the hearing request should be addressed;
- A copy of the Authority 's hearing procedures.

The Authority hearing procedures will be provided to families in the briefing packet. When terminating assistance for criminal activity as shown by a criminal record, the Authority will provide the subject of the record and the

tenant/participant with a copy of the criminal record upon which the decision to terminate was based.

The Authority must provide family participants with the opportunity for an informal hearing for decisions related to any of the following Authority determinations:

- Determination of the family's annual or adjusted income and the computation of the housing assistance payment;
- Calculation of utility allowance;
- Family unit size determination under Authority subsidy standards;
- Non-citizen eligibility;
- Determination to terminate a family's FSS Contract, withhold supportive services, or propose forfeiture of the family's escrow account.

Informal hearings are not required for established policies and procedures and Authority determinations such as:

- Discretionary administrative determinations by the Authority;
- General policy issues or class grievance;
- Establishment of the Authority schedule of utility allowances for families in the program;
- An Authority determination not to approve an extension or suspension of a voucher term;
- An Authority determination not to approve a unit or lease;
- An Authority determination that an assisted unit is not in compliance with HQS Authority must provide hearing for family breach of HQS because that is a family obligation determination);
- An Authority determination that the unit is not in accordance with HQS because of the family size;
- An Authority determination to exercise or not exercise any right or remedy against the owner under a HAP contract.

### Notification of Hearing:

It is the Authority's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the Authority will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations. When the Authority receives a request for an informal hearing, a hearing shall be scheduled within ten (10) days.

The notification of hearing will contain:

- The date and time of the hearing;
- The location where the hearing will be held;
- The family's right to bring evidence, witnesses, legal or other representation at the family's expense;
- The right to view any documents or evidence in the possession of the Authority upon which the Authority based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing. (The Authority charges \$.35 per page for copies, and this fee, must be paid before the copy/ies will be provided to the family). Requests for such documents or evidence must be received no later than five (5) business days before the hearing date; and
- A notice to the family that the Authority will request a copy of any documents or evidence the family will use at the hearing at Authority's expense. Requests for such documents or evidence must be received no later than five (5) business days before the hearing date.

### Hearing Procedures:

After a hearing date is agreed to, 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.

Pursuant to PIH Notice 2020-32, the hearing may be conducted in person, telephonically or via "remote hearing" through video-teleconferencing such as GoToMeeting, or other virtual platforms, as designated by the Housing Authority. If the participant does not have proper technology access which will allow the individual to fully participate, then the remote hearing should be postponed, or an in-person alternative must be provided.

If a family does not appear at a scheduled hearing and has not rescheduled the hearing in advance, the family must contact the Authority within twenty-four (24) hours, excluding weekends and holidays. The Authority will reschedule the hearing only if the family can show good cause for the failure to appear.

Families have the right to:

- Present written or oral objections to the Authority 's determination;
- Examine the documents in the file which are the basis for the Authority's action, and all documents submitted to the hearing officer;
- Copy any relevant documents at their expense;
- Present any information or witnesses pertinent to the issue of the hearing;
- Request that Authority staff be available or present at the hearing to answer questions pertinent to the case;
- Be represented by legal counsel, advocate, or other designated representative at their own expense. In such case, the family shall notify Authority at least two (2) business days before the scheduled hearing of their election to be represented by counsel;
- If the family requests copies of documents relevant to the hearing, the Authority will make the copies for the family and assess a charge of \$.35 per copy. In no case will the family be allowed to remove the file from the Authority's office.

In addition to other rights contained in this chapter, the Authority has a right to:

- Present evidence and any information pertinent to the issue of the hearing;
- Be notified if the family intends to be represented by legal counsel, advocate, or another party;
- Examine and copy any documents to be used by the family prior to the hearing;
- Have their attorney present;
- Have staff persons and other witnesses familiar with the case present.

The informal hearing shall be conducted by the hearing officer appointed by the Authority who is neither the person who made or approved the decision, nor a subordinate of that person.

The Authority appoints hearing officers who are:

- Authority Management;
- Managers from other Authority's;
- Professional mediators or arbitrators;
- An independent contractor qualified by the Authority.

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 an Authority document or recording and is erased once he/she renders his/her findings.

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 regulations.

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the hearing officer, the action of the Authority shall take effect and another hearing will not be granted.

The hearing officer will determine whether the action, inaction or decision of the Authority is legal 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 Authority

and the family within fourteen (14) days and shall include:

- A clear summary of the decision and reasons for the decision;
- If the decision involves money owed, the amount owed; and
- The date the decision goes into effect.

The Authority is not bound by hearing decisions which:

- Concern matters in which the Authority is not required to provide an opportunity for a hearing;
- Conflict with or contradict HUD regulations or requirements;
- Conflict with or contradict Federal, State or local laws;
- Exceed the authority of the person conducting the hearing.

The Authority shall send a letter to the participant if it determines the Authority is not bound by the hearing officer's determination within fourteen (14) days. The letter shall include the Authority's reasons for the decision.

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.

**19-I.E. HEARING and APPEAL PROVISIONS for RESTRICTIONS on ASSISTANCE to NON- CITIZENS [24 CFR Part 5, Subpart E]**

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the U.S. Citizenship and Immigration Services (USCIS) appeal.

Assistance to a family may not be terminated or denied while the Authority hearing is pending but assistance to an applicant may be delayed pending the Authority hearing.

## U.S. Citizenship and Immigration Services Determination of Ineligibility:

If a family member claims to be an eligible immigrant and the U.S. Citizenship and Immigration Services (USCIS) and a manual search do not verify the claim, the Authority notifies the applicant or participant within ten (10) days of their right to appeal to the USCIS within thirty (30) days or to request an informal hearing with the Authority either in lieu of or subsequent to the USCIS appeal.

If the family appeals to the USCIS, they must give the Authority a copy of the appeal and proof of mailing or the Authority may proceed to deny or terminate. The time period to request an appeal may be extended by the Authority for good cause.

The request for an Authority hearing must be made within fourteen (14) days of receipt of the notice offering the hearing or, if an appeal was made to the USCIS, within fourteen (14) days of receipt of that notice.

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 Authority 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 Authority will offer to pro-rate 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 prorated (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 (TR) and Total Tenant Payment (TTP);

- Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

**19-I.F. MITIGATING CIRCUMSTANCES FOR APPLICANTS/PARTICIPANTS WITH DISABILITIES [24CFR 982.204, 982.552(C)]**

When applicants are denied placement on the waiting list, or the Authority is terminating assistance, the family will be informed that presence of a disability may be considered as a mitigating circumstance during the informal review process.

## CHAPTER 20

### SPECIAL HOUSING TYPES [24 CFR 982.601]

#### OVERVIEW

The Authority may consider the use of special housing types in its program. Depending on the local need, funding availability and that the applicant/participant can demonstrate this would be the only way the family could obtain assistance.

The Authority will not set aside any program funding for special housing types unless the Authority receives special funding for such programs. A family may choose whether to rent housing that qualifies as a special housing type or to rent other eligible housing in accordance with requirements of the program.

#### Verification of Need for Reasonable Accommodation:

The use of special housing types would be made available if the applicant/participant can demonstrate that it is needed as a reasonable accommodation for a person with a disability. Acceptable documentation as verification of the need for reasonable accommodation would be a letter from one or more knowledgeable professionals to the Authority describing how the special housing type requested provides the accommodation of which the person is in need. The request and documentation will be reviewed by designated staff and a written response stating approval or disapproval will be sent to the applicant/participant within fourteen (14) days of receipt of the request.

A copy of the Authority'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.

**20-I.A. SINGLE ROOM OCCUPANCY [24 CFR 982.602, 982-603]**

The Authority will use a separate lease and Housing Assistance Payment contract for each assisted person residing in a Single Room Occupancy (SRO) unit. At this time the Authority is not assisting any SRO units.

**20-I.B. CONGREGATE HOUSING [24 CFR 982.606]**

An elderly person or a person with disabilities may reside in a congregate housing unit.

The Authority may approve a family member or live-in aide to reside with the elderly person or person with disabilities.

The Authority 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 Housing Assistance Payment (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 Authority'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.

The Authority will ensure that all congregate housing units approved for the program are in compliance with all of the HQS for congregate housing as regulated in 24 CFR 982.609.

**20-I.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 Authority, a live-in aide may reside with a person with disabilities.

The Authority must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by

persons with disabilities. Except for a live-in aide, all residents of a group home must be elderly persons or persons with disabilities.

The Authority 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 equal's one assisted person plus any Authority 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 Authority 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 Authority will ensure that all group home units approved for the program are in compliance with all of the HQS for group homes as regulated in 24 CFR 982.614.

## **20-I.D. SHARED HOUSING [24 CFR 982.615]**

### Definitions

For purposes of Voucher Shared Housing the following definitions apply:

- Common Space:

Space available for use by the assisted family and other occupants of the unit;

- Individual Lease Shared Housing:

The type of shared housing in which the Authority enters into a separate housing voucher contract for each assisted family residing in a shared housing unit;

- Private Space:

The portion of the dwelling unit that is for the exclusive use of an assisted family;

- 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 Authority has not set aside any vouchers restricted to Shared Housing.

An assisted family may reside in shared housing. In shared housing, an assisted family may share a unit with another resident or residents of a unit. The unit may be a house or an apartment.

Other persons who are assisted or not assisted under the tenant-based program may reside in a shared housing unit. The owner of a shared housing unit may reside in the unit.

A resident owner may enter into a HAP contract with the Authority. However, housing assistance may not be paid on behalf of an owner. The Authority will not approve assistance for a person or family that is related by blood or marriage to a resident owner.

The Authority may approve a live-in aide to reside with a family in order to care for a person with a disability. The Authority must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

The Authority will not approve shared housing assistance for a family if the owner resides in the unit and is related by blood and/or marriage to the assisted family. Although other regulations permit the leasing of a rental unit from certain relatives when needed as a reasonable accommodation, the U.S. Department of Housing and Urban Development (HUD) has not established a similarly regulatory provision for shared housing as defined in 24 CFR 982.306.

There will be a separate housing assistance payment contract and lease for each assisted family residing in a shared housing unit.

#### Rent and HAP Contract:

For shared housing, the term "pro-rata portion" means the ratio derived by dividing the number of bedrooms 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".

#### Maximum Subsidy:

For a family that resides in a shared housing unit, the payment standard is the lower of the payment standard amount on the Authority payment standard schedule for the family unit size or the pro-rata portion of the payment standard amount on the Authority payment standard for the shared housing unit size.

If the Authority approves a live-in aide, the live-in aide will be counted in determining the family unit size.

Utility Allowance:

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:

The Authority will ensure that all shared housing units approved for the program are in compliance with all of the Housing Quality Standards (HQS) for shared housing as regulated in 24 CFR 982.618.

**20-I.E. COOPERATIVE HOUSING [24 CFR 982.619]**

The Authority 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 Authority will not approve assistance for a family in cooperative housing until the Authority 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". 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".

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 Authority may approve a live-in aide to reside with the family to care for a person with disabilities. The Authority 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 Authority approves a live-in aide, the live-in aide will be counted when determining the family unit size.

#### Quality Standards:

The Authority will ensure that all cooperative housing units approved for the program are in compliance with all of the HQS outlined in the "Housing Quality Standards and Inspections" chapter, and regulated by [24 CFR 982.401].

#### **20-I.F. MANUFACTURED HOMES [24 CFR 982.620]**

The Authority will permit a family to lease a manufactured home and space with assistance under the program. The Authority will 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 "Housing Quality Standards and Inspections" 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 (b)(2)]:

#### Reasonable Rent:

During the assisted tenancy, the rent to owner for the manufactured home space may not exceed a reasonable rent as determined by the Authority.

The Authority will not approve a lease for a manufactured home space until the Housing Authority has determined that the initial rent to owner for the space is a reasonable rent.

At least annually during the assisted tenancy, the Authority will re-determine that the rent is reasonable.

The Authority will determine whether the rent to owner for a manufactured home space is a reasonable rent in comparison to rents for other comparable manufactured home spaces. The Authority will consider the size and location of the space and any services and maintenance provided by the owner in accordance with the lease.

By accepting each monthly housing assistance payment from the Authority, the owner of the manufactured home space certifies that the rent to owner for the space is not more than rent charged by the owner for unassisted rentals of comparable spaces in the same manufactured home park or elsewhere. If requested by the Authority, the owner must provide the Authority information on rents for other manufactured home space.

Housing Assistance Payments for Manufactured Home Space [24 CFR 982.623] HAP for the Voucher Tenancy:

There is a separate FMR for a family renting a manufactured home space. The payment standard is used to calculate the monthly housing assistance payment for a family. The FMR for rental of a manufactured home space is generally 40% of the published FMR for a two-bedroom unit.

Subsidy Calculation for the Voucher Program:

During the term of a voucher tenancy, the amount of the monthly housing assistance payment for a family will equal the lesser of the payment standard minus the total tenant payment, or the rent paid for rental of the real property on which the manufactured home owned by the family is located (the space rent) minus the total tenant payment.

The rent of the manufactured home space (including other eligible housing expenses) is the total of:

- The rent charged for the manufactured home space;
- The owner, maintenance and management charges for the space;

- The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and
- The applicable allowances for tenant paid utilities.

Utility Allowance Schedule for Manufactured Home Space Rental [24 CFR 982.624]

The Authority will establish utility allowances for manufactured home space rentals. During the initial lease term only, the allowances will include a reasonable amount for utility hook- up charges payable by the family, if the family actually incurs the expenses because of a move.

Allowances for utility hook-up charges do not apply to a family that leases a manufactured home space in place.

Utility allowances for manufactured home space will not be applied to cover the costs of digging a well or installation of a septic system.

**20-I.G. ASSISTED LIVING UNITS**

Occupancy:

An assisted family may reside in an assisted living unit. An assisted living facility is a public facility, proprietary facility, or facility of private nonprofit corporation that:

- Is licensed and regulated by the State (or if there is no State law providing for such licensing and regulation by the State), by the municipality or other political subdivision in which the facility is located;
- Makes available to resident's supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money;
- Using the telephone, or performing light or heavy housework, and which make available to resident's home health care services such as nursing and therapy; and
- Provides separate dwelling units for residents, each of which may contain a full kitchen and bathroom, and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility.

Assisted living facilities may be referred to as residential care facilities, adult care facilities, congregate care facilities or group homes as long as they meet the requirements noted above. Assisted living facilities are designed for residents who have the physical ability to live independently but need assistance with some activities of daily living such as personal care, transportation, meals, laundry, medication monitoring, security, and housekeeping. A person residing in an assisted living unit must not require continual medical or nursing care.

Rent:

Amends section 8(o)(18)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(18)(B)(iii) to allow a Authority to require a family to pay more than 40 percent (40%) of its monthly adjusted income for a unit in an assisted unit facility if the amount or percentage is reasonable given the services and amenities provided by the assisted living facility and as the Secretary deems appropriate.

The Authority may submit a request for a waiver of 24 CFR 982.508 and 982.305(a)(5) through the waiver process under 24 CFR 5.110 to require a family to pay more than 40 percent (40%) of its adjusted monthly income for an assisted unit, in order to allow the family to lease an assisted living unit that would otherwise be disapproved because the family share would exceed 40 percent (40%) of monthly adjusted income. HUD will review such requests on a case-by-case basis and may grant the waiver if HUD determines the request demonstrates good cause.

**CHAPTER 21**  
**FAMILY UNIFICATION PROGRAM (FUP) &**  
**INDEPENDENT LIVING SKILLS PROGRAM (ILSP)**

**OVERVIEW**

The Family Unification Program (FUP) is designed to re-unite families that because of the lack of decent, safe 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 Housing Authority of the County of Merced (Authority).

## **CHAPTER 21**

### **21-I.A. ISSUANCE of VOUCHERS for FAMILY PARTICIPATION**

Specific allocations of Housing Choice Vouchers (HCV) are designated for FUP. The project will be coded to indicate exclusive use for FUP. The FUP Vouchers are allocated as Targeted Funding.

There is a limit of families admitted under the FUP targeted funding, according to the allocated number by the Department of Housing & Urban Development (HUD).

Eligibility for assistance in the FUP and ILSP is determined by designated agency or using the HUD admissions criteria. HCV eligibility criteria will not differ from traditional criteria and will be verified by the Authority, except in certain cases indicated below under Selection and Exceptions.

HSA, ILSP, and the Authority may designate liaison personnel to deal with the day-to-day matters involving the programs. HSA and ILSP will, through close coordination with the Authority, furnish the name, or names of the family or families, selected to receive an HCV voucher. The initial announcement of selection, to the Authority, can be verbally transmitted but must be verified in writing on HSA referral form or ILSP stationary to the Authority, within 72 hours of the verbal notification. An HCV application and an eligibility packet will be completed by the family with the help of HSA or ILSP staff and will be attached to the written referral verification.

This Authority 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.

### **21-I.B. SELECTION of FAMILIES an 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 HCV 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 Authority 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 Authority any information regarding family member's criminal and illegal drug activity.

The Authority 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 Authority '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 HCV Department. The Authority 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 Child Protective Services (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 Authority when the family's case has closed with CPS within 5 business days of occurrence;
- HSA will notify Authority when any family composition or income changes take place with the removal of a child or adult through CPS within 5 business days of occurrence, for families where the change is at least of 30 days or more duration;

- Authority 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. Authority 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 Authority by HSA will be compared with those families already on the HCV waiting list. Any family on the Authority's HCV waiting list that matches with the HSA's list must be assisted in order of their position on the waiting list in accordance with Authority 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 Authority 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 HCV 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.

### **21-I.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 Authority 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 HCV Program, including advising the Authority 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.

### **21-I.D. SUPPORTIVE SERVICES**

In addition to the supportive services that the Authority 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

#### **22-I.A. PROGRAM OBJECTIVE**

The objective of this Housing Authority of the County of Merced (Authority) 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 Housing Choice Voucher (HCV) Existing Housing Assistance Payments (HAP) 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.

#### **22-I.B. PROGRAM COORDINATION**

The Authority'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.

#### **22-I.C. ELIGIBILITY FOR PARTICIPATION**

In addition to meeting Housing Choice Voucher Program Participant requirements, prospective FSS participants must also meet the following criteria:

- Effective the date of participation in the FSS Program;
- Live within the Authority's jurisdiction for a minimum of 12 months;
- Exceptions are: job opportunities in other areas, education or illness in family. Verification will be required.
- Agree to cooperate with all FSS program requirements, including case management;

- Agree to follow their Action Plan, developed in consultation with the Self-Sufficiency Coordinator, in meeting their individual plan to become self-sufficient.

### **22-I.D. OUTREACH EFFORTS**

The Authority will attempt to utilize the following methods to notify current voucher program participants of the availability and advantages of participating in the FSS Program:

- Written notification to all existing program participants;
- Mail outs to all existing program participants;
- Written notification to current participants from another housing authority's jurisdiction who are utilizing the portability feature of the HCV certificate and voucher programs and who are relocating to the Authority's jurisdiction;
- Brochures provided to current program participants during their annual reexamination interview.

### **22-I.E. PRIORITIZATION of APPLICANTS**

FSS applicants will be prioritized in the following order:

- The date and time in which the preliminary application is received;
- The length of time the applicant has been a program participant in the Housing Choice Voucher Program;

For up to 50% of the applicants who are admitted to the FSS Program, the Authority may assist any applicant without regard to the prioritization method for the following families.

HCV 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.

## **22-I.F. DEVELOPMENT of ACTION PLANS**

Each FSS participant shall sign an 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.

## **22-I.G. PORTABILITY**

Any program participant selected for the FSS Program who is an incoming portable shall be absorbed by this Authority.

Current participants in the FSS Program may utilize the HCV'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 HCV Program shall be advised of the following options available to both the program participant and the receiving Housing Authority:

- 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;
- 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;
- 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.

## **22-I.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.

## **22-I.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 HCV certificate or voucher will not be terminated as long as they are eligible for the HCV 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.

## **22-I.J. PROGRAM COORDINATING COMMITTEE**

The FSS Program Coordinating Committee may 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, an FSS participant, City of Merced elected official and other appropriate agencies. This committee will meet quarterly.

## **22-I.K. ESCROW ACCOUNTS**

The Authority will establish individual escrow accounts for FSS families. Internal reporting procedures assure continual coordination between the FSS Program Coordinator, Director of Housing Programs, 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:

- When a new participant enters into a Contract of Participation, the FSS Coordinator will forward applicable information to the assigned HCV Eligibility Specialist, who will contact the Finance Department by memo;
- The FSS Coordinator will complete the Contract of Participation with the income information;
- 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;

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 VOUCHER PROGRAM [24 CFR Part 983]

#### OVERVIEW

This chapter describes the Project-Based Voucher Program Final Rule. The Housing Opportunity Through Modernization Act (HOTMA) 2016 made changes to the Percentage Limitation (Program Cap) and PHA Submission Requirements [24 CFR 983.6].

Under HOTMA, a PHA may project-base up to 20 percent of its Consolidated Annual Contributions Contract (ACC) authorized units, instead of 20 percent of its voucher budgeted authority. HOTMA also establishes a 10 percent exception to this program cap for units that meet the exception criteria. These changes were made effective January 18, 2017.

HOTMA authorizes PHA's to attach PBV assistance to not more than 20 percent of its ACC instead of 20 percent of its voucher budget authority. For purposes of this provision, the term "authorized units" means the number of units under the PHA's current ACC.

"Exception" categories are units eligible for inclusion above the 20 percent program limit, provided the additional units fall into one of the eligible categories identified later in this chapter.

The Authority can execute an initial HAP contract for up to fifteen (15) years, with the option to renew the HAP contract in fifteen (15) year increments if the Authority determines an extension is appropriate. Rents under the PBV program are generally limited to the Fair Market Rent (FMR) or other HUD approved exception rents.

Like tenant-based rents, PBV rents must also be rent reasonable. HUD has promulgated special exceptions for projects that receive other forms of subsidy or tax credits.

After twelve (12) months, families have the option to move from PBV assisted housing to tenant-based housing if funding is available. A separate transfer list has been established to facilitate a fair and equitable method of allocating available tenant-based vouchers to eligible project-based residents.

## **23-I.A. OWNER PROPOSAL SELECTION PROCEDURES**

### Request for Proposal (RFP):

An advertisement announcing an RFP will be published in the following newspapers, *The Merced Sun Star*, *the Authority web site* and *any other local community newspapers/advertisement*. The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered for the project-based program, the submission deadline, and will note how to obtain the full RFP that contains comprehensive information on the application and selection process. Any advertisement for the PBV will contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements. The due date for the submission of the RFP will be determined in accordance with the Authority's Procurement Policy.

### Other Competitive Proposals:

Selection of a proposal that was previously selected within the last three (3) years pursuant to another program's competitive process (i.e. tax credits, etc.) and in which the possible receipt of PBV assistance was not a consideration. Such proposals will be evaluated in accordance with criteria established in the Authority's Annual Plan and/or the Consolidated Plan for the jurisdiction in which the project is to be located.

## **23-I.B. CRITERIA for PBV AWARD**

### Deconcentrate Poverty:

The site and/or location are consistent with the goal of deconcentrating poverty, expanding housing and economic opportunities, and facilitating compliance with Fair Housing laws. Generally, this standard is met as long as no more than twenty percent (20%) of the households in the census tract in which the project is located are at or below the established poverty level for the county.

### Housing Quality Standards (HQS) Site and Neighborhood Inspection:

The site must meet HQS site standards (see Chapter 10, Housing Quality Standards and Inspections). The site and neighborhood must be reasonably free from disturbing noises, reverberations, and other dangers to the health, safety and general welfare of the occupants. Other dangers shall include scientifically verified unacceptable levels of contamination of air or water. It shall be presumed if the project is surrounded by other occupied homes and/or

ongoing businesses that said dangers do not exceed the threshold to pass HQS site standards, unless information is received to the contrary. The Authority is responsible for inspecting the proposed project's site and neighborhood to determine consistency with the HQS site standards.

#### Promote the Authority Goals:

Projects must contribute to meeting the goals outlined in the Authority's Annual Plan and/or the Consolidated Plan for the jurisdiction in which the project to be assisted is located. These goals will be clearly identified in the RFP and will also be applied to "Other Competitive Proposals".

#### Units Eligible for PBV Award:

Multi-family rental housing units are generally eligible for PBV's. Duplex units and larger may be awarded PBV's so long as their use do not fall under the categories listed below under "Condition's that Prohibit PBV Award".

Rental units located in a project that is being developed with Hope VI funds (awarded in fiscal year 2001 or later) or HUD Capital funds which are themselves not public housing units, may receive PBV assistance so long as the ratio of non-Hope VI or Capital funds and other public housing funds used in the development (i.e. a thirty (30) unit project may have twenty (20) PBV units and ten (10) public housing units so long as the amount of public housing funds, including Hope VI and Capital funds, is less than 33.33% of the total amount of funds used in the development of the thirty (30) rental units).

PBV assistance in Hope VI/Mixed Finance transactions that are "mixed-income" developments (i.e. that do not consist solely of all public housing units) is permitted subject to certain restrictions. In addition, PBV assistance is permitted for a unit that has been subsidized with HUD Section 236 interest reduction payments.

#### Conditions that Prohibit PBV Award:

PBV assistance may not be provided to nursing homes, transitional housing, cooperative housing, student housing, owner-occupied housing, a high-rise elevator project that may be occupied by families with children, or for any unit currently existing that has a family who is not eligible for assistance under the PBV. In addition, the Authority may not pay PBV assistance to any unit that is a public housing unit, a unit that is subsidized with another form of Housing Choice Voucher (HCV) assistance such as HUD's tenant-based voucher assistance, a unit subsidized with another government rental subsidy, such as HUD's Section 236 rental assistance payments or rental assistance under the

Federal HOME Investment Partnerships Program, or units subsidized by HUD under its Section 202 (housing for seniors) or Housing Choice Voucher 11 (housing for persons with disabilities) programs.

Projects Owned by the Authority:

Selection of PBV units that are owned by the Authority, or in which the Authority has an identity of interest, must be approved by HUD using criteria that mirror those in the applicable or most recent RFP, Annual Plan and/or Consolidated Plan of the jurisdiction in which the proposed project is to be located.

**23-I.C. PROJECT SELECTION and REQUIREMENTS**

Notice Procedures:

A notice of owner selection must be in writing and can only be made after the items above have been determined. The Public Notice of the project selected for PBV assistance must be made within fourteen (14) calendar days. The Public Notice shall consist of a single notice in the local newspaper of general circulation under Legal Notices and on the official Authority website. Selection of an Authority owned project can be made only after HUD determines that the selection was made in conformance of the procedures specified in this Administrative Plan. The Authority will make available for public review all documentation used in making the selection of proposals.

Requirements for a PBV Assisted Construction Project:

Construction projects include new construction (projects that do not exist on the date of project selection) and rehabilitation (existing projects that do not substantially meet HQS on the date of selection). New construction and rehabilitation projects must have an Agreement to enter a Housing Assistance Payment (AHAP) contract before construction starts on the project.

Pre-AHAP Requirements:

Before the Authority can execute an AHAP contract for a new construction or rehabilitation project, the following requirements must be met:

- Environmental review must be completed
- Request for Release of Funds must have been granted
- Determination of proposed rents and utility allowances has been made
- Subsidy layering review completed

AHAP Requirements are as follows:

- Construction cannot commence prior to the execution of an AHAP (in a form required by HUD Headquarters);
- The AHAP must contain description of the project, including identification of the site, location of contract units and the following:
  - Number and size of units (square feet, bedrooms and baths);
  - Services, maintenance or equipment supplied by owner;
  - Utilities provided by owner;
  - Indication of whether requirements of the Fair Housing Act and 504 (access for disabled) will apply to contract units;
- Estimated initial rent to owner;
- Description of work to be performed under the AHAP including additional Housing Authority quality and design requirements that exceed the HQS requirements;
- Labor standard requirements apply to the development of nine (9) or more contract units;
- Note that other funding in the project may trigger a more restrictive threshold for the project;
- Section 3, employment of low-income persons on or associated with the project and other Equal Opportunity requirements;
- Debarred project principles cannot be awarded participation in the PBV program or other federal programs and activities;
- The owner must disclose any possible conflict of interest;
- The project must be completed within specified deadlines contained in the AHAP.

Prior to execution of the HAP, the Authority must determine that the owner has submitted all required evidence of completion and assure that the work has been completed in accordance with the AHAP including:

- Certification by the owner that the project has been completed in accordance with HQS and all other requirements in the AHAP;

- An owner certification that the labor standard requirements and the equal opportunity requirements have been complied with;
- Any additional documentation that may be required by the Authority

**23-I.D. REQUIREMENTS to EXECUTE a HAP CONTRACT for EXISTING PROJECTS**

Assure that the Environmental Review has been done and a Request for Release of Funds has been granted as well as the following:

- The determination of rents and the utility allowance has been made;
- A subsidy layering review has been completed;
- Assure that the project actually meets the HQS requirements

**23-I.E. HAP REQUIREMENTS for ALL CONSTRUCTION and EXISTING PROJECTS**

Must be in a form required by HUD Headquarters and it must contain description of the housing including:

- Identification of the site;
- Location of contract units;
- Number and size of units (square feet, bedrooms and baths);
- Services, maintenance, or equipment supplied by owner;
- Utilities provided by owner;
- Indication of whether requirements of the Fair Housing Act and 504 will apply to contract units.

It must include the initial rent to owner and contract term. The term of the contract is subject to availability of sufficient appropriated funding as determined by HUD or the Authority.

**23-I.F. HAP CONTRACT AMENDMENTS**

Limited unit substitutions allowed

A unit meeting the PBV requirements, including meeting HQS, can substitute

a different unit of the same bedroom size in the same building by amendment.

The reasonable rent for the substitute unit must be determined prior to the effective date of substitution.

#### Limited additional units allowed

Within three (3) years of HAP contract execution, units may be added to the HAP contract by amendment provided that:

- The twenty-five (25%) unit limitation in a building is not exceeded;
- The addition of units will not exceed the authorized budget authority for PBV assistance of five percent (5%);
- The units must meet PBV requirements.

#### HAP Anniversary Date

For units added by amendment to the HAP contract or staged completion of a project, the anniversary date for the HAP contract is the date the contract was initially executed. The expiration date of the HAP contract is based on the date that the HAP contract was initially executed.

#### Staged Units

The difference between units added by amendment to the HAP contract and a staged HAP contract is that the units in a staged HAP contract were identified in the HAP contract while those added by amendment were not.

### **23-I.G. RENT DETERMINATIONS and CHANGES**

The amount of the initial rent that the owner may collect from its tenants is established at the beginning of the HAP contract term. During the term of the HAP contract, the rent to the owner is re-determined at:

- The owner's request for a rent increase;
- Any time there is a five percent (5%) or greater decrease in the published HUD Fair Market Rent (FMR) for the area in which the project-based unit is located. Under the final PBV regulations, the general rule is that the rent an owner may charge for a unit receiving PBV assistance shall not exceed the lower of:
  - the applicable FMR for the unit, based on the bedroom size;

- the reasonable rent as determined by the Authority; or
- the rent requested by the owner.

If the unit receiving PBV assistance is also a Low Income Housing Tax Credit (LIHTC) unit, the project is not located in a qualified Census Tract, the unit is located in a building that has LIHTC units of the same bedroom size as the PBV units but those comparable LIHTC units do not have any form of rental assistance other than tax credits, and if the tax credit rent exceeds the applicable HUD Fair Market Rent, then the rent to owner is not to exceed the lower of (1) the tax credit rent minus any utility allowance as established under the rules of the LIHTC, (2) the reasonable rent as determined by the Authority, or (3) the rent requested by the owner.

The owner of such a LIHTC unit would be limited to receiving:

- Rent from the tenant;
- PBV assistance for that unit up to only the maximum tax credit rent.

This will also apply to existing HAP contracts at the time of any adjustment in the rents that may be charged under those PBV/LIHTC HAP contracts.

Finally, rent for PBV assisted units may not exceed any other rent limitations that may be imposed (for example under the LIHTC program for tax credit units or units that were constructed using funds from the Federal HOME Investment Partnerships Program).

### **23-I.H. PBV RENTS BASED on FAIR MARKET RENTS**

In determining rents, the Authority will use the most recently published HUD Fair Market Rents (FMR) in effect and the utility allowance schedule in effect as to the execution of the HAP contract for the Authority's geographical area, or the amounts for each in effect at any time during the thirty (30) day period immediately prior to the beginning date of the HAP contract. The Authority must use the same applicable utility allowance schedule for both its tenant-based and project-based voucher programs.

### **23-I.I. OWNER RENT INCREASE REQUESTS**

The Authority requires that if the owner desires to increase the rents charged to the PBV assisted units, the request for an increase in the rents must be made by the owner in writing to the Authority at least sixty (60) days, but no more than ninety (90) days prior to the annual anniversary of the HAP contract. The Authority will then determine if the owner is entitled to a rent increase by re-computing the maximum rent that could be charged by an

owner under the tests described above.

The Authority may determine on its own that there should be a rent decrease if there has been a decrease of five percent (5%) or greater in the HUD Fair Market Rent for the project area. Such a rent decrease will apply even if the owner did not request the rent determination (or in fact asked for a rent increase). The new adjusted rent that may be charged by the owner applies for the period of twelve (12) calendar months from the annual anniversary of the HAP contract.

In addition to redeterminations based on changes in HUD's Fair Market Rents or requests by the owner, the Authority is required to re-determine the reasonable rent that may be charged by the project owner whenever the HAP contract is amended to substitute different contract units in the same building which is permitted at any time during the term of the HAP contract, as would be the case when the owner decides to allow the PBV units in that building to "float" and therefore, not designate specific rental units as the PBV units. The option to "float" units is the owners to declare at initial occupancy. Once selected, the choice is irrevocable. Later exceptions may be granted in extreme circumstances and at the sole discretion of the Authority.

In determining the reasonable rent, the Authority must conduct a comparability analysis (either by its own staff or by another qualified person or entity) and consider at least three (3) comparable units in the private, unassisted market; however, those unassisted units may be units in the same project as the PBV assisted units.

The monthly HAP by the Authority to the owner for a PBV contract unit that is leased to a qualifying tenant is the rent that the owner is permitted to charge, minus the rent that the tenant is required to pay to the owner under HUD regulations (which is the tenant rent minus the utility allowance). Under Section 8 (o)(3) of the United States Housing Act of 1937, the tenant's rent contribution is generally limited to forty percent (40%) of the tenant's annual income. If the amount of the utility allowance exceeds the Total Tenant Payment (TTP), the Authority shall pay the amount of such excess utility allowance to the tenant as a reimbursement for tenant paid utilities and the tenant rent to the owner shall then be zero (\$0).

### **23-I.J. VACANCY LOSS PROVISIONS and CONTRACT AMENDMENT**

If an assisted family moves out of the unit, the owner may keep the HAP 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 months following the move out month.

In addition, the Authority may, but is not required to amend the HAP contract to reduce the number of PBV contract units for those PBV units that have been vacant for a period of 120 days or more since the owner provided the Authority a notice of vacancy for such unit(s). Consideration will be taken into account whether to reduce the number of contract units or not include market conditions, demonstrated efforts to re-rent the unit to qualified applicants, the amount of additional time that may be needed to lease the unit, and any other criteria that would impact the likelihood of being able to rent the unit within another thirty (30) days. However, if the unit remains vacant for 120 days, cancellation of the contract for that unit shall be mandatory.

### **23-I.K. LEASE EXPIRATION**

Upon the expiration of the lease for a PBV assisted unit, which must be for a minimum initial term of one year (and must also contain a HUD required tenancy addendum), the owner may renew the lease, refuse to renew the lease for good cause (as defined under 24 CFR Part 982.310) or refuse to renew the lease without good cause. If the owner refuses to renew the lease without good cause, the Authority is obligated to provide the family with tenant-based voucher assistance, and that the PBV unit will be removed from the HAP contract.

### **23-I.L. TERMINATION of HAP CONTRACT**

An owner is allowed to terminate the HAP contract if the amount of rent to the owner for any PBV contract unit, as adjusted under the project-based voucher rules described above (which are set forth at 24 CFR Parts 983.301, 983.302 and 983.303) is reduced below the amount of the initial rent to the owner established by the HAP contract. In such a case, the families that had received the benefit of the project-based voucher assistance will be entitled to tenant-based voucher assistance.

Once a family has moved into an apartment that receives the benefit of PBV assistance under a HAP contract, the family, if it moves out voluntarily from that project-based assisted unit after at least one year of residing there, the family is eligible for assistance under the Authority's tenant-based voucher program or another comparable program for rental assistance provided by the Authority. However, families that leave the PBV assisted unit before having resided there one year or are evicted at any time for cause are not automatically entitled to assistance under the Authority's tenant-based voucher program.

Upon funding availability and at the Authority's discretion, families residing in

project- based units who need to move in the first year because of an increase in family size or because they reside in a special needs unit but no special needs exist, may be offered a tenant-based voucher if comparable project-based housing is not available within sixty (60) days.

### **23-I.M. ORGANIZATION and CHARACTERISTICS of the WAIT LIST for PROJECT-BASED VOUCHERS**

#### Status Changes Independently

The project-based voucher wait list may be opened and closed separately from its community-wide tenant-based wait list. The same public opening and closing procedures shall be used for both lists .

#### Special Needs Units and Housing Types

Sufficient information shall be gathered from each family to determine their eligibility for special needs units, i.e. disability (sensory, wheelchair, senior unit, etc.), and special codes developed to allow efficient sorting and identification of such families when special needs units are available.

#### Effect of Housing Refusal

Families refusing an offer of housing shall not have their name removed from the wait list. This does not affect their standing for other areas for which they have applied or on the community-wide tenant-based wait list. Once housed in PBV housing, the applicant's name is removed from the PBV wait list. There is no effect on the community-wide tenant-based wait list.

#### Purging the PBV Wait List

The project-based wait list will be purged as needed. Failure to respond to a purge letter is cause for removal of their listing from the project-based wait list.

#### Consistency with Tenant-based List

All other mechanics of wait list management will be consistent with the tenant-based wait list.

### **23-I.N. PROJECT-BASED VOUCHER (PBV) EXCEPTION CATEGORIES and PERCENT LIMITATION**

The PBV Program will not exceed five percent (5%) of the total number of  
Housing Authority of the County of Merced  
Project Based Voucher Program

FY 23/24

budgeted units under the Authority's Housing Choice Voucher Program (HCVP).  
"Exception" categories:

- Units eligible for inclusion above the 20 percent program limit, provided the additional units fall into one of the eligible categories identified as:

Homeless:

- The units are specifically made available to house individuals and families who meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) and contained in the Continuum of Care (COCC) Interim Rule at 24 CFR 578.3.
- Unaccompanied youth under 25 years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who:
  - Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a), section 637 of the Head Start Act (42 U.S.C. 9832), section 41403 of the VAWA Act of 1994 (42 U.S.C. 1437e-2), section 330(h) of the Public Health Service Act (42 U.S.C. 254b(h)), section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)), or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a);
  - Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance;
  - Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and
  - Can be expected to continue in such status for an extended period of time because of but not limited to: chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence,

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...

Veterans:

The units are specifically made available to house families that are comprised of or include a veteran

Supportive Services:

The units provide supportive housing to persons with disabilities or to elderly persons.

Poverty rate of 20 percent or less:

The units are located in a census tract with a poverty rate of 20 percent or less.

PBV and VASH Voucher:

HOTMA authorizes PHAs to project-base Family Unification Program (FUP) and HUD-VASH vouchers without requiring additional HUD approval.

Funding designated specifically for HUD Veterans Affairs Supportive Housing (VASH) project-based units is not included in the five percent (5%) cap.

Fair Housing:

The Authority shall not deny any family or individual the equal opportunity to apply for or receive assistance under the HCVP on the basis of race, color, sex, religion, creed, national or ethnic origin, age, familial status, handicap or disability or sexual orientation.

Discrimination:

To further its commitment to fully comply with applicable Civil Rights laws, the Authority will provide Federal, State and local information to voucher holders

regarding unlawful discrimination and any recourse available to families who believe they are victims of a discriminatory act. Such information will be made available during the family's briefing session, and all applicable Fair Housing and Equal Opportunity (FHEO) information and discrimination complaint forms will be made a part of the voucher holder's briefing packet and available upon request at the front desk in the Authority offices.

All Authority staff will be required to attend fair housing training and be informed of the importance of affirmatively furthering fair housing and providing equal opportunity to all families, including providing reasonable accommodations to persons with disabilities, as a part of the overall commitment to providing quality customer service. Fair Housing posters are posted throughout the Authority offices, including in the lobby and interview rooms and the equal opportunity logo will be used on all outreach materials. Staff will attend local fair housing update training sponsored by HUD and other local organizations to keep current with new developments.

#### Reasonable Accommodations for Persons with Disabilities:

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25, and 8.31, no individual with disabilities shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination because the Authority's facilities are inaccessible to or unusable by persons with disabilities. Posters and housing information are displayed in locations throughout the Authority's office in such a manner as to be easily readable from a wheelchair. The Authority's offices are accessible to persons with disabilities. Accessibility for the hearing impaired is provided by California Relay Service or by utilizing the Telecommunications Device for the Deaf (TDD) Tele Type (TTY) at 711 or 1-800-855-7100.

#### Authority Policy:

It is the policy of the Authority to be service directed in the administration of the 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 their disability before the Authority will treat a person differently than anyone else. All 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 PBV Program and related services. The availability of requesting an accommodation will be made known by including notices on Authority forms and letters. This policy is intended to afford persons with disabilities an equal

opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as those who do not have disabilities and is applicable to all situations including when a family initiates contact with the Authority, when the Authority initiates contact with a family including when a family applies, and when the Authority schedules or reschedules appointments of any kind.

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 Americans with Disabilities Act (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

Rehabilitated former drug users and alcoholics are covered under the ADA. However, a current drug user is not covered. In accordance with 5.403, 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 discontinued.

Once the person's status as a qualified person with a disability is confirmed, the Authority will require that a professional third party competent to make the assessment provide 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 Authority finds that the requested accommodation creates an undue administrative or financial burden, the Authority will 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 Authority (i.e., 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 Authority.

The Authority will provide a written decision to the person requesting the accommodation within fourteen (14) calendar days. If a person is denied the

accommodation or feels that the alternative suggestions are inadequate, they may request an informal hearing to review the Authority's decision.

A 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.

The Authority will not grant a reasonable accommodation that would allow the tenants to grow, use, otherwise possess, or distribute medical marijuana, even if in doing so such tenants are complying with state laws authorizing medical marijuana related conduct. The Authority will deny admission to those applicant households with individuals who are, at the time of consideration for admission, using medical marijuana. This is in accordance with the Quality Housing and Work Responsibility Act (QHWRA) of 1998 (42 U.S.C. 13661).

All Authority mailings will be made available in an accessible format upon request, as a reasonable accommodation.

### **Definitions:**

#### Existing Housing:

For purposes of the PBV Program, an existing unit is a unit which, at the time of written notice of selection of the project for PBV assistance, requires less than \$1,000 in rehabilitation including its prorated share of work to be done to common areas and systems to meet Housing Quality Standards (HQS).

#### Twenty-Five (25%) Percent Maximum

No more than twenty-five percent (25%) of the units in any PBV project may receive assistance except as noted below:

- Single family dwellings (four or fewer units);
- Dwellings specifically designated for elderly;
- Dwellings specifically designated for disabled families as defined by HUD in 24 CFR(b);
- Families receiving supportive services as defined by HUD

#### Funding Objectives and Requirements

The goals of the policy and project-based program's focus will be on

accomplishing the following objectives for households at or below thirty percent (30%) of the Area Median Income (AMI):

- Increase the number of affordable housing opportunities;
- Increase the affordability of existing affordable housing opportunities.

Units to be selected for project-based funding subsidies will have to meet the following criteria:

- Serve households at or below thirty percent (30%) of the AMI at time of admission to the project;
- Serve special needs populations. Special needs populations include any population that shares a need or set of needs that represents a barrier to success in the Housing Choice Voucher Program. However, an owner cannot discriminate on the basis of a specific disability.
- Meet the HUD's Housing Quality Standards.
- Be available for occupancy when application for subsidy is made.

All housing providers applying to participate in this program must be eligible to participate in HUD programs.

#### New Construction Requirements

The owner must submit an architect's certification that the working drawings, specifications and proposed construction comply with HUD's minimum property standards, local codes and ordinances, and zoning requirements.

The site must not be located in an area of minority concentration, and 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, unless the project is necessary to meet overriding housing needs that cannot be met in that housing market area. All new construction projects must meet HUD' Field Office site and neighborhood review requirements.

#### Family Outreach

The Authority will publicize and disseminate information to make known the availability of housing assistance and related services for very low-income families. When the waiting list is open, the Authority will publicize the availability and nature of housing assistance for very low-income families in a newspaper of general circulation.

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

#### Advertisement Policy for Soliciting Owners

An advertisement will be placed in The Merced Sun Star, the Authority web site and any other local community newspapers/advertisement. The advertisement will run once a week for a period of three (3) consecutive weeks and indicate the number of vouchers to be project-based and the type of units that will be considered for project-basing. Interested owners will have at least thirty (30) days from the date of the last publication to apply.

An advertisement for existing building units that will be held to the twenty five percent (25%) limitation will be placed separately from those for new construction, rehabilitation and existing units that will exceed the twenty five percent (25%) unit limitation.

All advertisements to project-based vouchers will contain a statement requiring all respondents that participation requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements. New construction and rehabilitation projects will also be subject to the Federal labor standard provisions.

Only applications received in response to an Authority approved RFP will be considered for project basing. If the RFP solicits applications for new or rehabilitation construction only, applications for existing units will not be accepted or vice versa. A pre-approved advertising and competitive bidding process approved by HUD will be used to solicit project-based vouchers.

#### Minimum Information to be submitted with all Proposals

All formal proposals should be limited to a total of ten (10) pages. The Authority reserves the right to request additional information, if necessary to complete the selection process. Proposals may combine requests for vouchers for multiple sites/developments under one application or may submit different sites/developments. All sites/developments included in an application will be evaluated as a separate project.

All proposals must provide the following information for each site/development that will be used to determine the amount of rental assistance for the

site/development and to evaluate the proposal:

- Project location (including street address or addresses) and ownership;
- Building(s) description(s) and number of housing units requiring project-based assistance, including square footage, bedroom count and bathroom count;
- Estimated date of availability of units;
- List of area amenities and services, including playgrounds, public schools, public transportation and access to grocery stores;
- Operating pro-forma statement and current year operating budget including estimated subsidy;
- Proposed rent per unit, including indication of which utilities, services and equipment are included in the rent and which ones are excluded;
- Description of experience in managing and operating similar housing developments;
- Indicate any recent audit findings regarding the management of similar properties;
- List all projects the organization currently manages that have project-based assistance or some other income restricted units;
- Description of the population that will be served with respect to household composition and special needs. Indicate the percentage of units that will serve households with children (or households requiring two or more bedrooms) and the number of bedrooms per housing unit;
- Indicate the percentage of units that will serve households with special needs and explain why this special needs population represents a barrier to success. Special needs population includes any population that shares a need or a set of needs that represents a barrier to success in the HCVP;
- Description of the support services to be provided to the special needs population that will be served and how these services will be funded currently and into the foreseeable future. Describe how this project would serve this population if funding for services is reduced or withdrawn;
- A signed certification of the owner's intention to comply with Title VI of the Civil Rights Act of 1966, Title VIII of the Civil Rights Act of 1968, E.O. 11063, E.O. 11246, Section 3 of the Housing and Urban Development Act of 1968 and all applicable Federal requirements listed in 24 CFR 983.11. This includes, but is not limited to, the payment of

not less than the prevailing wages in the locality pursuant to the Davis-Bacon Act to all laborers and mechanics employed in the construction or rehabilitation of the project. Existing housing projects are not subject to this provision;

- The identity of the owner, developer, builder, architect, management agent (and other participants), the names of officers and principal members, shareholders, investors and other parties having a substantial interest; the previous participation of each in HUD Programs on the prescribed HUD Form No. 2530 and a disclosure of any possible conflict of interest by any of these parties that would be a violation of the Agreement or the Contract; and information on the qualifications and experience of the principle participants.

The following information will be requested for applications that are conditionally approved:

- Evidence of site control, and for new construction, identification and description of the proposed site, site plan, and the neighborhood;
- Evidence of compliance with local permits and zoning requirements;
- Documentation that the rents being proposed are reasonable and are comparable to rents being charged for similar housing, with similar amenities in the same area as the proposed project.

### Vacancy Payments

If an assisted family moves out of the unit, the owner may keep the HAP 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 months following the move out month.

The Authority reserves the right to adjust the number of units or terminate the project- based contract, if the units are not fully utilized by an eligible family within 120 days of the vacancy, commencing on the first day of the month when the vacancy occurs.

### Termination of the HAP Contract

The Authority may set the initial term of the HAP contract for a maximum five (5) year period and may extend it for subsequent periods ranging from one (1) year to five (5) years as considered appropriate by the Authority to achieve long-term affordability or for the expansion of housing opportunities.

The Authority will stipulate the term of the initial HAP contracts or renewals. All contracts, extensions and renewals are contingent on the future availability of appropriations and availability of funding under the Authority's Annual Contributions Contract (ACC) with HUD.

### Inclusionary Clause

Notwithstanding the contents of this PBV Program Plan, for all areas not specifically addressed by this plan, the Authority's Administrative Plan shall govern as a supplement to [24 CFR 983].

## **Housing Choice Voucher Project Based Program Guidelines**

The Project-Base Voucher (PBV) operates under the same rules (with few exceptions) as the Housing Choice Voucher Program (funding source for PBV).

### Consistency with the Authority Plan

The PBV Program shall be consistent with the goals and objectives of the Authority's Annual (Agency) Plan. Each plan shall have a statement of the number of PBV units, general locations, and how project-based units will be consistent with the Agency Plan.

### Privacy Rights

Applicants and participants, including all adults in the household, are required to sign the HUD Form 9886, Authorization for Release of Information. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD and the Authority will obtain family information.

The Authority's policy regarding the release of information is in accordance with State and local laws, which may restrict the release of family information.

Any and all information which would lead one to determine the nature and/or severity of a person's disability must be kept in a separate folder and marked "confidential" or returned to the family member after its use. The personal information in this folder must not be released except on an as needed basis in cases where an accommodation is under consideration. All requests for access and granting of accommodations based on this information must be approved by the Director of Housing Programs or his or her designee.

The Authority's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will

be stored in a secure location, which is only accessible by authorized staff. Staff will not discuss family information contained in files unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

### Verification of Disability

The Authority 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.

### Outreach

Outreach efforts will include notification of the Authority's 504 Advisory Board as well as all other media and agencies listed in the Administrative Plan regarding public notices (see section on opening and closing the waiting list in Chapter 3, Applying for Admission.)

### Applying for Admission

All persons who wish to apply for the PBV program must submit a pre-application either on-line or in a written format, as indicated in the Authority's public notice. Applications will be made available in an accessible format upon request from a person with a disability.

Applicants must meet the criteria for the PBV wait list. The Authority must accept pre- applications from applicants for whom the wait list is open. For PBV senior/elderly housing, the applicant must meet the age requirement.

To provide specific accommodation to persons with disabilities, upon request, the information may be mailed to the applicant and if requested, it will be mailed in an accessible format.

The full application is completed at the eligibility appointment in the applicant's own handwriting, unless assistance is needed, or a request for a reasonable accommodation is requested by a person with a disability. Applicants will then be interviewed by the Authority staff to review the information on the full application form. Verification of disability as it relates to 504, Fair Housing, or ADA reasonable accommodation will be requested at this time.

The full application will also include questions asking all applicants whether reasonable accommodations are necessary.

## The Eligibility Process

The eligibility criteria for families under the PBV Program are identical to those used in the HCVP. The units which are occupied by ineligible tenants cannot be placed under a HAP Contract. The Authority will inspect each unit proposed for the PBV Program and identify any tenants that reside in said units.

A variety of problems may be encountered in determining family eligibility, including families who are not income eligible and otherwise eligible families whose units are too large or too small for their family composition. Mitigation to these situations will be subject to the PBV Final Rule Guidance.

For the purposes of determining eligibility for the PBV Program, (f this Administrative Plan) shall apply.

## Preferences

The Authority uses the same preferences for the PBV Program as for the HCV program.

## Tenant Selection

Income targeting requires that no less than seventy five percent (75%) of the families admitted annually must have incomes that are less than thirty percent (30%) of the area median for the overall voucher program including the PBV Program. All new admissions to the program will be selected from the waiting list.

The Authority will establish a PBV waiting list. All families on the regular waiting list can be placed on this list at their request when it is open. All applicants for tenant-based assistance can be placed on this list without penalty to any other application for assistance they may have been pending.

The Authority may place applicants referred by owners onto an applicant cannot be removed from the waiting list because the owner does not select them or because the family does not accept the unit; they maintain their position on the waiting list as though no offer was made.

The PBV waiting list when it is open. The preferences for admission to the PBV are similar to those used for the tenant- based HCVP.

## Units Designated for Elderly or Disabled Families

Developments specifically designed for elderly or disabled families may enter into contract under the PBV Program. An elderly family is defined as a family

whose head, spouse, co-head, or sole member is a person who is 62 years of age or older. A disabled family is a family whose head, spouse, co-head, or sole member is a person with a disability [24 CFR 5.403].

Preference will be given in tenant selection for units in the project-based development designated for senior or disabled families. In selecting elderly or disabled families to fill these units, the Authority must also apply any preferences established in this Administrative Plan. The Authority may not discriminate against elderly or disabled families that include children (Fair Housing Amendments Act of 1988).

If there are not enough elderly families to occupy the units in a designated senior Project Based Voucher development, the Authority may allow near-elderly families to occupy the units. A near-elderly family is a family whose head, spouse, or co-head is at least 50 years of age but is less than 62 years of age. When there are insufficient elderly families on the waiting list who wish to reside in a PBV Program development designated as a senior complex, near-elderly families will be selected.

#### Authority/ Owner Responsibility/ Obligation of the Family

This section outlines the responsibilities and obligations of the Authority, the owners/landlords, and the participating families.

#### Authority Responsibilities

- The Authority will comply with the consolidated ACC, HUD regulations and other requirements, and this Administrative Plan;

In administering the program, the Authority must:

- Publish and disseminate information about the availability and nature of housing assistance under the program;
- Explain the program to owners and families;
- Encourage owners to make units available for leasing in the program, including owners of suitable units located outside areas of poverty or racial concentration;
- Affirmatively further fair housing goals and comply with equal opportunity requirements;
- Make efforts to help disabled persons secure satisfactory housing;
- Receive applications from families, determine eligibility, maintain the waiting list, select applicants, certify each selected family, and provide

housing information to families selected;

- Determine who can live in the assisted unit at admission and during the family's participation in the program;
- Obtain and verify evidence of citizenship and eligible immigration status in accordance with 24 CFR part 5;
- Inspect the unit before the assisted occupancy begins and annually inspect at least twenty five percent (25%) of the project-based units or as deemed appropriate by [24 CFR Part 983];
- Determine the amount of the housing assistance payment for a family;
- Determine the maximum rent to the owner and whether the rent is reasonable;
- Make timely housing assistance payments to an owner in accordance with the HAP contract;
- Examine family income, size, composition at admission, and annually during the family's participation in the program. The examination includes verification of income, assets, allowable deductions and other family information;
- Establish and adjust the utility allowance schedule;
- Administer and enforce the HAP contract with an owner, including taking appropriate action if the owner defaults (i.e., HQS violation);
- Determine whether to terminate assistance to a participant family for violation of family obligations;
- Conduct informal reviews of certain decisions concerning applicants for participation in the program;
- Conduct informal hearings on certain decisions concerning participant families;
- Provide sound financial management of the program.

### Owner Responsibilities

The owner is responsible for performing all of the owner's obligations under the Agreement (new construction and rehabilitation only), HAP contract and the lease.

The owner is responsible for:

- Performing all management and rental functions for the assisted unit, including determining suitability and selecting a tenant from the Housing Choice Voucher PBV waiting list to lease the unit;
  - Renting eligible units solely to eligible PBV families;
  - Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance;
  - Complying with equal opportunity requirements;
  - Preparing and furnishing information required under the HAP contract;
  - Enforcing tenant obligations under the lease;
  - Paying for utilities and services (unless paid by the family under the lease);
  - For provisions on modifications to a dwelling unit occupied or to be occupied by a person with disabilities see 24 CFR 100.203;
  - Collecting from the family;
    - Any security deposit required under the lease;
    - The tenant contribution (the part of rent to owner not covered by the housing assistance payment); and
    - Any charges for unit damage caused by the family.

### Obligations of the Family

This section states the obligations of a participant family under the program.

### Supplying required information:

- The family must supply any information that the Authority or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status. Information includes any requested certification, release or other documentation;

- The family must supply any information requested by the Authority or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements;
- The family must disclose and verify Social Security Numbers and must sign and submit consent forms for obtaining information;
- Any information supplied by the family must be true and complete.

HQS breach caused by the family:

The family is responsible for any HQS breach caused by the family or its guests.

Allowing the Authority to inspect the unit:

The family must allow the Authority to inspect the unit at reasonable times and after at least a 24-hour notice.

Violation of lease:

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

Family Notice of Move or Lease Termination:

The family must provide the owner at least a 30-day notice in writing, with a copy to the Authority before the family moves out.

Owner Eviction Notice:

The family must promptly give the Authority a copy of any owner eviction notice it receives.

Use and Occupancy of the Unit:

- The family must use the assisted unit for residence by the family. The unit must be the family's only residence;
- Prior to approval of the composition of the assisted family residing in the unit, the owner must first authorize the addition of any household member. The Authority will send the owner the appropriate form for the owner to sign. The Authority must approve the composition of the assisted family residing in the unit. The family must promptly

inform the Authority of the birth, adoption or court-awarded custody of a child. The family must request approval from the Authority to add any other family member as an occupant of the unit. No other person may reside in the unit (except for a foster child/foster adult or live-in aide). If the Authority has given approval, a foster child/foster adult or a live-in aide may reside in the unit;

- The family must promptly notify the Authority if any family member no longer resides in the unit;
- 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 for residence by members of the family. Any business use of the unit must comply with zoning requirements and the affected household member must obtain all appropriate licenses;
- The family must not sublease the unit;
- The family must not assign the lease or transfer the unit.

#### Absence from the Unit:

The family must supply any information or certification requested by the Authority to verify that the family is living in the unit, or relating to family absence from the unit, including any requested information or certification on the purposes of family absences. The family must cooperate with the Authority for this purpose. The family must promptly notify the Authority of its absence from the unit.

Absence means that no member of the family is residing in the unit. The family may be absent from the unit for up to thirty (30) days. The family must request permission from the Authority for absences exceeding thirty (30) days. The Authority will decide within ten (10) days of the request. An authorized absence may not exceed 180 days. Any family absent for more than thirty (30) days without authorization will be terminated from the PBV Program.

Authorized absences may include, but are not limited to:

- Prolonged hospitalization;
- Absences beyond the control of the family (i.e., death in the family, other family member illness);
- Other absences that are deemed necessary by the Authority

#### Interest in the Unit:

The family may not own or have any interest in the unit.

#### Fraud and Other Program Violations:

The members of the family must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.

#### Crime by Family Members:

The members of the family may not engage in drug-related criminal activity or other violent criminal activity.

#### Other Housing Assistance:

An assisted family or members of the family, may not receive Housing Choice Voucher PBV 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.

#### Briefing Types and Required Attendance

A full HUD required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted. Families who attend a briefing and still have the need for individual assistance will be referred to their Eligibility Specialist.

The purpose of the briefing is to explain to families how the program works and the documents in the voucher holder's packet so that they are fully informed about the program. This will enable them to utilize the program to their advantage.

Unlike the HCV program, Project-Base Program is site-based and families are not issued a voucher.

#### Determining Family Unit Size

The Authority does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom on the voucher. The Authority's subsidy standards for determining voucher size shall be applied in a manner consistent with Fair Housing guidelines. For subsidy standards, an adult is a person 18 years old or older.

All standards in this section relate to the number of bedrooms not the family's

actual living arrangements.

One bedroom will generally be assigned for each two family members. The Authority will consider factors such as family characteristics including sex, age, or relationship. Consideration will also be given for medical reasons and the presence of a live-in aide.

Extra bedrooms approved as a reasonable accommodation for a person with disabilities may be approved for medical equipment if the need is verified by a person knowledgeable with the family and the disability need. . The actual equipment in the extra bedroom will be verified by the Authority during the annual inspection of the unit. If the extra bedroom is not being used for the intended purpose, the family may be required to downsize to a smaller unit when a unit becomes available.

Generally, the Authority assigns one bedroom to two people within the following guidelines:

- Foster children will be included in determining unit size only if they will be in the unit for more than 12 months;
- Live-in attendants will generally be provided a separate bedroom. No additional bedrooms are provided for the attendant's family;
- Space may be provided for a child who is away at school but who lives with the family during school recesses;
- Space will not be provided for a family member, other than a spouse, who will be absent most of the time, such as a member who is away in the military;
- Adults of different generations may have separate bedrooms;
- Single person families shall be allocated a zero or a one-bedroom voucher.

**Guidelines for Determining Bedroom Size**

Voucher Size	# of Persons in Household	
	Unit Bedrooms Minimum Number	Maximum Number
0 Bedroom	1	2
1 Bedroom	1	4
2 Bedrooms	2	6
3 Bedrooms	3	8
4 Bedrooms	4	10
5 Bedrooms	5	12

6 Bedrooms	6	14
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Overcrowded, Under-Occupied and Accessible Units

The Authority subsidy standards determine the appropriate size unit for the family based on composition.

If the Authority determines that a family is occupying:

- Wrong-size unit; or
- Unit with accessibility features that the family does not require, and the unit is needed by a family that requires the accessibility features, the Authority must promptly notify the family and the owner of this determination and of the Authority’s offer of continued assistance in another unit pursuant to the following:
  - PBV assistance in an appropriate size unit (in the same building or in another building);
  - Other project-based housing assistance (i.e. by occupancy of a public housing unit); or
  - Tenant based rental assistance under the voucher program.

Rent

The contract rent for PBV units is determined at the initial Agreement to Enter into a Housing Assistance Payment Contract with the owner sets the rent amount by unit bedroom size in a project-based site.

If the unit under consideration is financed with Low-Income Housing Tax Credits (LIHTC), the rents will be subject to a special exception. If an LIHTC development is located outside a qualified census tract, the rent may be as high as the rent charged for comparable units in the development with tax credit subsidies but without additional rental assistance. That is, if the rent for an LIHTC project is higher than the maximum voucher payment standard, the rent allowed for project basing the units may be above the payment standard and up to the amount charged in the other LIHTC financed units.

A rent increase may be done at annually at the anniversary date and must be approved by the Authority.

The family share of the rent for the project-based voucher unit remains at thirty percent (30%) of the adjusted income for rent (subject to the same exceptions in the tenant-based voucher program).

### Annual Recertification/Reexamination

Families are required to be recertified at least annually. Income limits are not used as a test for continued eligibility at recertification.

### Reexamination Notice to the Family

The Authority will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview.

As a reasonable accommodation by a person with a disability, the Authority will provide the notice in an accessible format. The Authority will also mail the notice to a third party, if requested as a reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

The Authority's procedure for conducting annual examinations will be the same as the HCV program requirements.

### Completion of Annual Recertification

The Authority will have all recertifications for families completed before the anniversary date. This includes notifying the family of any changes in rent at least thirty (30) days before the scheduled date of the change in family rent.

### Persons with Disabilities

Persons with disabilities who are unable to come to the office will be granted an accommodation by conducting the interview at the person's home, upon verification that the accommodation requested meets the need presented by the disability.

### Collection of Information

The Authority has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate.

The family will be responsible to complete the recertification packet.

The Eligibility Specialist will review the returned eligibility package provided by the family and enter the information into the database from the recertification

package. In addition, all third-party verifications will be reviewed and verified. The family is required to complete and sign a Personal Declaration Form.

All adult household members will be required to complete and sign the adult signature pages where applicable.

#### Failure to Respond to Notification

If the family fails to return the recertification package or fails to provide required information, a follow-up letter or a documented telephone call will be conducted.

After two attempts in contacting the family and all efforts have been exhausted, the Eligibility Specialist will send the family a notice of termination and the right to an informal hearing.

Exceptions to these policies may be made by the Director of Housing Programs if the family is able to document an emergency situation that prevented them from providing verification or if requested as a reasonable accommodation for a person with a disability.

#### Documents Required from the Family

In the notification letter to the family, the Authority will include instructions for the family to provide the following:

1. Documentation of income or no income for all family members;
2. Documentation of all assets;
3. Documentation of any deductions/allowances;
4. Documentation to support claims;
5. Personal Declaration Form completed by head of household;
6. Birth certificate, picture I.D. and Social Security cards; and
7. Three (3) months current rent receipts.

#### Verification of Information

The Authority will follow the verification procedures and guidelines described in this plan. Verifications for reexaminations must be less than 120 days old.

#### Tenant Rent Increases

If tenant rent increases, a thirty (30) day notice is mailed to the family prior to the scheduled effective date of the annual recertification.

If less than thirty (30) days are remaining before the scheduled effective date of the annual recertification, the tenant rent increase will be effective on the first of the month following the thirty (30) day notice.

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 scheduled effective date of the annual recertification.

### Tenant Rent Decreases

If tenant rent decreases, it will be effective on the anniversary date. If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing.

### Reporting Interim Changes

Program participants must report all changes in household composition within thirty (30) days of the change. This includes additions due to birth, adoption and court-awarded custody. The family must obtain approval from the landlord and the Authority prior to all other additions to the household.

If any new family member is added, family income must include any income of the new family member. The Authority will conduct a reexamination to determine such additional income and will make the appropriate adjustments in the HAP 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 recertification after moving into the unit.

### Interim Reexamination Policy

The Authority will not conduct interim reexaminations when families have an increase in monthly adjusted income of \$200 or less, other than when a new member is added to the household, provided the information was provided within thirty (30) days of the change. Participants in the Family Self Sufficiency (FSS) program are exempt from this rule as increases in income will generate a change in their escrow balance. Families will be required to report all increases in income/assets within thirty (30) days of the increase.

### 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 Authority must calculate the change if a decrease in income is reported.

Decreases in the tenant portion of the rent will be made effective the first day of the month following the month in which the change was reported, if the change was reported in writing on or before the fifteenth (15<sup>th</sup>) day of the month. If reported after the fifteenth (15<sup>th</sup>) day of the month, the effective date of the tenant portion of rent will be effective on the first day of the second month after the change was reported. If a tenant requests a hardship to the written notification requirement of the interim policy, the Director of Housing Programs or his or her designee may approve such requests.

### Authority Errors

If the Authority makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted, if necessary, to correct the error, but 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.

### Housing Quality Standards (HQS) Requirement

Once a project-based unit is under a HAP contract, the Authority will inspect a minimum of 25% of the units within a site/development to determine annual HQS compliance. Any time that significant fail items are identified, the Authority will inspect all units within that project annually.

### Family Choice to Move with Continued Assistance [24 CFR 983.261]

The family may terminate the assisted lease at any time after the first year of occupancy. The family must give the owner advance written notice of intent to vacate (with a copy to the Authority) in accordance with the lease.

If the family has elected to terminate the lease in this manner, the Authority must offer the family the opportunity for continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

Before providing notice to terminate the lease under paragraph (a) of this section, a family must contact the Authority to request comparable tenant-based rental assistance if the family wishes to move with continued assistance. If voucher or other comparable tenant-based rental assistance is not immediately available upon termination of the family's lease of a PBV unit, the

Authority must give the family priority to receive the next available opportunity for continued tenant-based rental assistance.

If the family terminates the assisted lease before the end of one year, the family relinquishes the opportunity for continued tenant-based assistance.

#### Emergency Transfer Plan for PBV participants

Participants receiving project based rental assistance no longer have to give notice to the Authority prior to leaving the assisted unit if they are leaving because a member of the family is the victim of a VAWA crime and the move is needed to protect the health and safety of a family member. (24 CFR 983.261)

PHAs administering Public Housing, HCV (including PBV), and Section 8 Mod Rehab must ensure that their Emergency Transfer Plans covers these programs.

If another Project-Based Voucher unit is available for which the participant qualifies, the participant will be presented with an offer to transfer. If a participant reasonably believes a proposed transfer on the same site would not be safe, the participant may request a transfer to a different site; if available. If a unit is available, the transferring participant must agree to abide by the terms and conditions that govern occupancy in the new unit. The participant may notify their current Landlord of their need to move and provide them with written notice certifying that they meet the criteria for an emergency transfer under VAWA.

The Authority will also provide the victim with a list of providers in the community who serve victims of domestic violence, dating violence, sexual assault, and stalking.

#### Project Based Voucher-Assisted for one (1) year or more:

If there are not any Project Based units available, the participant will be issued a Housing Choice Voucher, if they have been on the PBV program for at least one (1) year as long as funding is available. The Authority will also provide the victim with a list of providers in the community who serve victims of domestic violence, dating violence, sexual assault, and stalking.

#### Project Based Voucher-Assisted less than one (1) year

If there are not any Project Based units available, the participant will

be placed on the Housing Choice Voucher Waitlist by time and date they were approved for an emergency transfer. The Authority may be unable to transfer a participant to a particular unit or program if the participant has not or cannot establish eligibility for that unit or program.

The Authority will also provide the victim with a list of providers in the community who serve victims of domestic violence, dating violence, sexual assault, and stalking.

If the participant is assisted under the PBV program, the Authority will assist them in identifying other housing providers who may have safe and available units to which they could move and local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking (attached to this plan) in the following circumstances:

- If the participant seeks to move sooner than a tenant-based voucher will be available;
- If the Authority cannot offer the participant other assistance (because they have not lived in the PBV unit for one year or more); or another safe PBV unit is not immediately available.

### Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant or participant is urged to take all reasonable precautions to be safe. Tenants or participants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY). Tenants or participants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>. Tenants or participants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking are listed below:

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments,

1-800-787-3224 (TTY). Participants may also contact **Valley Crisis Center, 209-725-7900**. 24 Hr. crisis line (209) 722-4357.

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

For help regarding sexual assault, participants may contact **Valley Crisis Center, 209-725-7900**. 24 Hr. crisis line (209) 722-4357.

Victims of stalking seeking help may contact **Valley Crisis Center, 209-725-7900**.

### Record Retention

The Authority must keep a record of all emergency transfers requested under this plan, and the outcomes of said requests. This documentation must be retained for a period of three years.

## CHAPTER 24

### VIOLENCE AGAINST WOMEN ACT (VAWA)

#### OVERVIEW

This chapter addresses the protections for victims of domestic violence, dating violence, sexual assault, or stalking who are applying for, or are the beneficiaries of, assistance under a Department of Housing & Urban Development (HUD) program covered by the Violence Against Women Act (VAWA), as amended. Notwithstanding the title of the statute, protections are not limited to women but cover victims of domestic violence, dating violence, sexual assault, or stalking, regardless of sex, gender identity, or sexual orientation. Consistent with the nondiscrimination and equal opportunity requirements at 24 CFR 5.105(a), victims cannot be discriminated against on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age, and HUD Programs must be also operated consistently with HUD's Equal Access Rule, which requires that HUD-assisted and HUD-insured housing are made available to all otherwise eligible individuals and families regardless of actual or perceived sexual orientation, gender identity, or marital status.

The Authority may find instances of domestic violence, dating violence, sexual assault, or stalking against youth (those under the age of 18 years old) living in assisted household for which the family may need to exercise VAWA protections to protect the youth victim. The Authority should exercise the same documentation and confidentiality procedures in assisting a family in this situation.

Unemancipated minors would not be eligible to sign leases under HUD programs. The Authority may consider contacting child welfare or child protective services, or law enforcement, when a minor claim to be a victim of domestic violence, dating violence, sexual assault, or stalking.

Guests, unassisted members, and live-in aides of the family are ineligible for VAWA protections that are available only to tenants and participants.

As a reasonable accommodation, a tenant/participant can request VAWA protections based on the grounds that the live-in aide is a victim of domestic violence, dating violence, sexual assault or stalking. In addition, other reasonable accommodations may be needed on a case-by-case basis.

In cases where a guest or unassisted member is a victim of domestic violence, dating violence, sexual assault or stalking, a tenant/participant cannot be

evicted or have assistance terminated on the basis of the domestic violence, dating violence, sexual assault or stalking of the guest or unassisted member.

Unassisted members who are also on the lease, may qualify by the way of the lease for VAWA protections at 24 CFR 5.2005(c).

The VAWA Final Rule provides that an applicant for assistance or a tenant/participant receiving assistance under a covered housing provider may not be denied admission to, denied assistance under, terminated from participation in, or evicted from housing on the basis or as a *direct result* of the fact that the applicant or tenant/participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking if the applicant or tenant otherwise qualifies for admission, assistance, participation or occupancy.

In addition to prohibiting denial, termination, or eviction based on the fact that the applicant or tenant/participant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, the VAWA Final Rule prohibits covered housing programs from denying assistance or admission, terminating participation in, or evicting a tenant based on an adverse factor, if the adverse factor is determined to be a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

However, if a denial or termination of assistance or eviction is required by federal statute, based on a particular adverse factor, the Authority must comply with that statute, even if the adverse factor is a direct result of domestic violence, dating violence, sexual assault or stalking. For example, if the applicant is subject to a lifetime registration requirement under a State sex offender registration program, the Authority must comply with section 578 of the Quality Housing and Work Responsibility Act of 1998 and deny the applicant admission, even if the sex offense(s) were a direct result of the fact that the applicant was a victim of domestic violence, dating violence, sexual assault or stalking.

On the surface, adverse factors may appear unrelated to domestic violence, dating violence, sexual assault, or stalking and may present legitimate reasons for denial, termination, and eviction. However the presence of an adverse factor may be present during much of an abusive relationship, or it may present itself only when the victim is attempting to leave, or has left the abusive relationship. The following examples are provided to give the Authority a sense of many instances in which adverse factors might be the "direct result" of domestic violence, dating violence, sexual assault, or stalking.

This list is neither exhaustive nor definitive:

- Poor credit history;
- Poor rental history;
- Criminal record;
- Failure to pay rent.

To trigger the direct result analysis, it is the responsibility of the applicant or tenant to:

- Inform the Authority that they are a victim of domestic violence, dating violence, sexual assault, or stalking; and
- Provide enough information for the Authority to decide regarding the adverse factor they are claiming was a direct result of domestic violence, dating violence, sexual assault, or stalking.

After the Authority receives this information, the Authority should consider the individual's statement and any possible supporting documentation in determining if an adverse factor was a direct result of domestic violence, dating violence, sexual assault, or stalking. If further information is necessary for this determination, the Authority may request additional supporting document

- Be in accordance with the Authority policies or practices;
- Not require evidence of the domestic violence, dating violence, sexual assault, or stalking other than as specified in 24 CFR 5.2007; and
- Not violate the VAWA Final Rule's confidentiality requirements or any other laws.

Where an applicant, tenant or participant fails to request VAWA protections, the Authority is not independently required to identify whether adverse factors are the direct result of domestic violence, dating violence, sexual assault, or stalking. The Authority may seek training, where available, from a trained third-party (such as an expert victim service provider) on reviewing VAWA documentation. Any communications with a third party must be done consistent with the VAWA rule's confidentiality requirements.

If the Authority believes any information is not clear, it should speak to the victim to try and clarify the information. After the Authority has received the information from the tenant or applicant, if necessary, clarified this information with the tenant or applicant, the Authority must make an objectively reasonable determination, based on all of the circumstances, whether the adverse factor is a direct result of the fact that the applicant or tenant/participant is a victim of domestic violence, dating violence, sexual assault, or stalking.

The Authority must notify the applicant or tenant if the Authority finds that the denial, termination, or eviction is not on the basis or as a “director result” of being a victim of domestic violence, dating violence, sexual assault, or stalking, and the applicant or tenant is thus denied admission to, denied assistance under, termination from participation in, or evicting from the housing. An applicant or tenant that disagrees with the finding should use the program’s appeal procedures, if applicable.

In the case of a termination or eviction, the Authority must comply with the prohibition in 5.2005(d)(2) which provides:

The covered housing provider must not subject the tenant, who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, or is affiliated with an individual who is or has been a victim of domestic violence, dating violence, sexual assault or stalking, to a more demanding standard than other tenants in determining whether to evict or terminate assistance.

Therefore, even if the direct result prohibition does not apply, the Authority cannot use that violation to terminate or evict the tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, if the covered housing provider does not ordinarily terminate or evict tenants for that violation.

The requirements of VAWA that are incorporated into the Housing Choice Voucher Housing Assistance Payment (HAP) Contract and Tenancy Addendum are as follows:

- An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated violations of the lease or other “good cause” for termination of assistance, tenancy, or occupancy rights of a victim of abuse (section 8(o)(7)(C) of the U.S. Housing Act of 1937);

- Criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an affiliated individual of the tenant is the victim or threatened victim of that abuse (section 8(o)(7)(D)(i) of the U.S. Housing Act of 1937);
- Notwithstanding the VAWA restriction on admission, occupancy or terminations of occupancy or assistance, or any Federal, State or local law to the contrary, an Authority may terminate assistance to, or an owner or manager may "bifurcate" a lease, or otherwise remove a household member from a lease, without regard to whether a household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members of others. This action may be taken without evicting, removing, terminating assistance to the occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be affected in accordance with the procedures prescribed by Federal, State and local law for the termination of leases or assistance under the Housing Choice Voucher Program (section 8(o)(7)(D)(ii) of the U.S. Housing Act of 1937);
- Nothing in section 8(o)(7)(D)(i) may be construed to limit the authority of a public housing agency, owner or manager, when notified, to honor court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members in cases where a family breaks up (section 8(o)(7)(D)(iii) of the U.S. Housing Act of 1937);
- Nothing in section 8(o)(7)(D)(i) limits any otherwise available authority of an owner or manager to evict or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the owner, manager or public housing agency does not subject an individual is or has been a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding stand than other tenants in determining whether to evict or terminate (section 8(o)(7)(D)(iv) of the U.S. Housing Act of 1937);

- Nothing in section 8(o)(7)(D)(i) shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than section 8(o)(7)(D)(i) for victims of domestic violence, dating violence, sexual assault, or stalking (section 8(o)(7)(D)(iv) of the U.S. Housing Act of 1937).

## CHAPTER 24

### 24-I.A. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

The term *bifurcate* means:

To divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

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:

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

The term *domestic*:

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 engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's individual safety or the safety of others; or suffer substantial emotional distress.

The term *actual or imminent threat*:

- Refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.

The term *spouse or intimate partner of the victim*:

- Includes a person who is or has been in a social relationship or a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

### The term Covered Housing Program:

- Refers to the individual or entity under a covered housing program, as defined by each program in its regulations, that has a responsibility for the administration and/or oversight of VAWA protections and includes PHAs, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities.

For Project Based Voucher (PBV) program, "covered housing provider," as such term is used in HUD's regulations in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) refers to the PHA or owner (as defined in 24 CFR 982.4), as applicable given the responsibilities of the covered housing provider as set forth in 24 CFR part 5, subpart L. For example, the PHA is the covered housing provider responsible for providing the notice of occupancy rights under VAWA and certification form described at 24 CFR 5.2005(a). In addition, the owner is the covered housing provider that may choose to bifurcate a lease as described at 24 CFR 5.2009(a), while the PHA is the covered housing provider responsible for complying with emergency transfer plan provisions at 24 CFR 5.2005(e)

VAWA means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e *et seq.*).

### **24-I.B. NOTIFICATION**

The Authority of the County of Merced (Authority) acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under the Authority's policies. Therefore, if the Authority makes a determination to deny admission to an applicant family, the Authority will include in its notice of denial:

- A statement of the protection against denial provided by VAWA;
- A description of Authority confidentiality requirements.

### **24-I.C. VAWA PROTECTIONS (24 CFR 5.2005)**

#### Notification of Occupancy Rights under VAWA and Certification Form:

The Authority must provide notice to each of its applicants and HCV participants the notice of occupancy rights and the certification form as described:

- A "Notice of Occupancy Rights under the Violence Against Women Act," as prescribed and in accordance with directions provided by HUD, that explains the VAWA protections under this subpart, including the right to confidentiality, and any limitations on those protections; and

A certification form, in a form approved by HUD, to be completed by the victim to document an incident of domestic violence, dating violence, sexual assault or stalking, and that:

- States that the applicant or tenant is a victim of domestic;
- Violence, dating violence, sexual assault, or stalking;
- States that the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection under this subpart meets the applicable definition for such incident under §5.2003; and
- Includes the name of the individual who committed the domestic violence, dating violence, sexual assault, or stalking, if the name is known and safe to provide.

The "Notice of Occupancy Rights under the Violence Against Women Act," and certification form must be provided to an applicant or tenant no later than at each of the following times:

- At the time the applicant is denied assistance or admission under a covered housing program;
- At the time the individual is provided assistance or admission under the covered housing program;
- With any notification of eviction or notification of termination of assistance; and
- During the 12-month period following *December 16, 2016*, either during the annual recertification or lease renewal process, whichever is applicable, or, if there will be no recertification or lease renewal for a tenant during the first year after the rule takes effect, through other means.

- The “Notice of Occupancy Rights under the Violence Against Women Act,” and certification form must be made available in multiple languages, consistent with guidance issued by HUD in accordance with Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency, signed August 11, 2000, and published in the FEDERAL REGISTER on August 16, 2000 (at 65 FR 50121));
- For the HCV program under 24 CFR part 982, the project-based voucher program under 24 CFR part 983, the public housing admission and occupancy requirements under 24 CFR part 960, and renewed funding or leases of the Section 8 project-based program under 24 CFR parts 880, 882, 883, 884, 886, as well as project-based section 8 provided in connection with housing under part 891, the HUD-required lease, lease addendum, or tenancy addendum, as applicable, must include a description of specific protections afforded to the victims of domestic violence, dating violence, sexual assault, or stalking, as provided in this subpart. Prohibited Basis for Denial of Termination of Assistance or Eviction.

Generally, an applicant for assistance or tenant assisted under a covered housing program may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

Termination on the basis of criminal activity:

A tenant in a covered housing program may not be denied tenancy or occupancy rights solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if:

- Criminal activity is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, and;
- The tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault or stalking.

## Construction of Lease Terms and Terms of Assistance

An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as:

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

## Limitations of VAWA Protections:

Nothing in this section limits the authority of a covered housing provider, when notified of a court order, to comply with a court order with respect to:

- The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or
- The distribution or possession of property among members of a household;
- Nothing in this section limits any available authority of a covered housing provider to evict or terminate assistance to a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. However, the covered housing provider must not subject the tenant, who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, or is affiliated with an individual who is or has been a victim of domestic violence, dating violence, sexual assault or stalking, to a more demanding standard than other tenants in determining whether to evict or terminate assistance;
- Nothing in this section limits the authority of a covered housing provider to terminate assistance to or evict a tenant under a covered housing program if the covered housing provider can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to property of the covered housing provider would be present if that tenant or lawful occupant is not evicted or terminated from assistance. In this context, words, gestures, actions, or other indicators

will be considered an “actual and imminent threat” if they meet the standards provided in the definition of “actual and imminent threat” in §5.2003;

- Any eviction or termination of assistance, as provided in paragraph (d)(3) of this section should be utilized by a covered housing provider only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents.

#### **24-I.D. EMERGENCY TRANSFER PLAN**

For purposes of this section, the following definitions apply:

*Internal emergency transfer:*

Refers to an emergency relocation of a tenant to another unit where the tenant would not be categorized as a new applicant; that is, the tenant may reside in the new unit without having to undergo an application process.

*External emergency transfer:*

Refers to an emergency relocation of a tenant to another unit where the tenant would be categorized as a new applicant; that is the tenant must undergo an application process in order to reside in the new unit.

*Safe unit:*

Refers to a unit that the victim of domestic violence, dating violence, sexual assault, or stalking believes is safe.

The emergency transfer plan must provide that a tenant receiving rental assistance through, or residing in a unit subsidized under, a covered housing program who is a victim of domestic violence, dating violence, sexual assault, or stalking qualifies for an emergency transfer if:

- The tenant expressly requests the transfer; and

- The tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying; or
- In the case of a tenant who is a victim of sexual assault, either the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying, or the sexual assault occurred on the premises during the 90-calendar-day period preceding the date of the request for transfer;
- The emergency transfer plan must detail the measure of any priority given to tenants who qualify for an emergency transfer under VAWA in relation to other categories of tenants seeking transfers and individuals seeking placement on waiting lists;
- The emergency transfer plan must incorporate strict confidentiality measures to ensure that the covered housing provider does not disclose the location of the dwelling unit of the tenant to a person who committed or threatened to commit an act of domestic violence, dating violence, sexual assault, or stalking against the tenant;
- The emergency transfer plan must allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. The emergency transfer plan must describe policies for assisting a tenant in making an internal emergency transfer under VAWA when a safe unit is not immediately available, and these policies must ensure that requests for internal emergency transfers under VAWA receive, at a minimum, any applicable additional priority that housing providers may already provide to other types of emergency transfer requests.
- The emergency transfer plan must describe reasonable efforts the covered housing provider will take to assist a tenant who wishes to make an external emergency transfer when a safe unit is not immediately available. The plan must include policies for assisting a tenant who is seeking an external emergency transfer under VAWA out of the covered housing provider's program or project, and a tenant who is seeking an external emergency transfer under VAWA into the covered housing provider's program or project.

These policies may include:

- Arrangements, including memoranda of understanding, with other covered housing providers to facilitate moves; and
- Outreach activities to organizations that assist or provide resources to victims of domestic violence, dating violence, sexual assault, or stalking.
- Nothing may preclude a tenant from seeking an internal emergency transfer and an external emergency transfer concurrently if a safe unit is not immediately available.
- Where applicable, the emergency transfer plan must describe policies for a tenant who has tenant-based rental assistance and who meets the requirements of paragraph (e)(2) of this section to move quickly with that assistance.

The emergency transfer plan may require documentation from a tenant seeking an emergency transfer, provided that:

- The tenant's submission of a written request to the covered housing provider, where the tenant certifies that they meet the criteria in paragraph (e)(2)(ii) of this section, shall be sufficient documentation of the requirements in paragraph (e)(2) of this section;
- The covered housing provider may, at its discretion, ask an individual seeking an emergency transfer to document the occurrence of domestic violence, dating violence, sexual assault, or stalking, in accordance with §5.2007, for which the individual is seeking the emergency transfer, if the individual has not already provided documentation of that occurrence; and
- No other documentation is required to qualify the tenant for an emergency transfer.
- The covered housing provider must make its emergency transfer plan available upon request and, when feasible, must make its plan publicly available.
- The covered housing provider must keep a record of all emergency transfers requested under its emergency transfer plan, and the outcomes of such requests, and retain these records for a period of three years, or for a period of time as specified in program regulations.

Requests and outcomes of such requests must be reported to HUD annually.

#### **24-I.E. DOCUMENTATION [24 CFR 5.2007]**

If an applicant or tenant represents to the covered housing provider that the individual is a victim of domestic violence, dating violence, sexual assault, or stalking entitled to the protections under 24 CFR 5.2005 or remedies under 24 CFR 5.2009, the covered housing provider may request in writing the applicant or tenant submit within 14 days:

- The HUD-5382 certification form; or

A document:

- Signed may be an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional or mental health professional (collectively "professional") from which the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003. 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 that is the ground for protection and remedies under this subpart, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003 and signed by the applicant or tenant;
- A record of a Federal, State, tribal, territorial, or local law enforcement agency or court documenting the domestic violence, dating violence, sexual assault, or stalking; or
- At the discretion the covered housing provider, a statement or other evidence provided by the applicant or tenant.

The Authority is not required to ask for documentation when an individual presents a claim for VAWA protections; the Authority may instead choose to provide benefits to an individual based solely on the individual's verbal statement or other corroborating evidence. The Authority will document in a confidential manner, the individual's verbal statement or other corroborating evidence.

## **24-I.F. TIME FRAME for SUBMITTING DOCUMENTATION**

If an applicant or tenant does not provide the documentation requested within 14 days after the date that the tenant receives a request in writing for such documentation from the covered housing provider, nothing in 24 CFR 5.2005 or 24 CFR 5.2009, which addresses the protections of VAWA, may be construed to limit the authority of the covered housing provider to:

- Deny admission by the applicant or tenant to the covered housing program;
- Deny assistance under the covered housing program to the applicant or tenant;
- Terminate the participation of the tenant in the covered housing program; or
- Evict the tenant, or a lawful occupant that commits a violation of a lease.

A covered housing provider may, at its discretion, extend the 14-day deadline

During the 14-day period and any granted extensions of that time, no adverse actions, such as eviction or termination, can be taken against the individual requesting VAWA protection. The Authority will not schedule an eviction, grievance hearing, informal review, or informal hearing to take place during this time frame.

### Remedies Available to Victims:

#### Lease bifurcation:

The Authority may terminate assistance to a household member who engages in criminal activity relating to domestic violence, dating violence, sexual assault or stalking against an affiliated individual or other individual.

Reasonable time to establish eligibility for assistance or find alternative housing:

- Applicability.

The reasonable time to establish eligibility under a covered housing or find alternative housing is specified in the Reasonable time to establish

assistance or find alternative housing section below, or alternatively in the program-specific regulations governing the applicable covered housing program. Some covered housing programs may provide different time frames than are specified in the Reasonable time to establish assistance or find alternative housing section below, and in such cases, the program-specific regulations govern.

- Reasonable time to establish assistance or find alternative housing.

If a covered housing provider exercises the option to bifurcate a lease as provided in the Applicability section above, and the individual who was evicted or for whom assistance was terminated was the eligible tenant under the covered housing program, the covered housing provider shall provide to any remaining tenant or tenants that were not already eligible a period of 90 calendar days from the date of bifurcation of the lease to:

- Establish eligibility for the same covered housing program under which the evicted or terminated tenant was the recipient of; or
- Establish eligibility under another covered housing program;
- Find alternative housing;

The 90-calendar-day period provided by Reasonable time to establish assistance or find alternative housing section above will not be available to a remaining household member if the statutory requirements for the covered housing program prohibit it. The 90-day calendar period also will not apply beyond the expiration of a lease, unless this is permitted by program regulations. The 90-calendar-day period is the total period provided to a remaining tenant to establish eligibility under the three options provided in this Reasonable time to establish eligibility for assistance or find alternative housing.

The covered housing provider may extend the 90-calendar-day period in the Reasonable time to establish eligibility for assistance or find alternative housing section up to an additional 60 calendar days, unless prohibited from doing so by statutory requirements of the covered program or unless the time period would extend beyond expiration of the lease.

*Efforts to promote housing stability for victims of domestic violence, dating violence, sexual assault, or stalking:*

Covered housing providers are encouraged to undertake whatever actions

permissible and feasible under their respective programs to assist individuals residing in their units who are victims of domestic violence, dating violence, sexual assault, or stalking to remain in their units or other units under the covered housing program or other covered housing providers, and for the covered housing provider to bear the costs of any transfer, where permissible.

#### **24-I.G. CONFLICTING DOCUMENTATION [24 CFR 5.2007(e)]**

In cases where the Authority 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 Authority may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (Item 2 and 3). The Authority 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 Authority 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.

#### **24-I.J. DISCRETION to REQUIRE NO FORMAL DOCUMENTATION**

##### **[24 CFR 5.2007(d)]**

The Authority has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence, without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

If the Authority accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault or stalking, the Authority 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 Authority 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 Authority may allow, the Authority may deny relief for protection under VAWA.

#### **24-I.K. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]**

All information provided to a covered housing provider including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking (confidential information) shall be maintained in strict confidence by the Housing Provider.

- The covered housing provider shall not allow any individual administering assistance on behalf of the covered housing provider or any persons within their employ (*e.g.*, contractors) or in the employ of the covered housing provider to have access to confidential information unless explicitly authorized by the covered housing provider for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law;

The covered housing provider shall not enter confidential information described in of this section into any shared database or disclose such information to any other entity or individual, except to the extent that the disclosure is:

- Requested or consented to in writing by the individual in a time limited release;
- Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- Otherwise applicable by law

### **24-I.L. HUD VASH**

In HUD-Veterans Affairs Supportive Housing (HUD-VASH), when a veteran's family member is seeking protection as a victim of domestic violence, dating violence, sexual assault, or stalking, and the veteran is the perpetrator of such violence, the victim must continue to be assisted.

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

another eligible veteran family upon the voucher's turnover.

## **24-I.M. VIOLECE AGAINST WOMEN ACT (VAWA) SELF-PETITIONER VERIFICATION PROCEDURES**

Prior to VAWA, non-citizen victims of covered crimes were dependent on the good will of their abusers to obtain the authorized immigration status necessary to receive assisted housing. Section 214 of the Housing and Community Development Act of 1980 states that HUD may not allow financial assistance to ineligible non-citizens, but assistance must not be denied while verifying immigration status.

HUD has determined that self-petitioners can indicate that they are in "satisfactory immigration status" when applying for assistance or continued assistance from Section 214- covered housing providers. "Satisfactory immigration status" means an immigration status which does not make the individual ineligible for financial assistance. After verifying such immigration status in the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, PHAs will make a final determination as to the self-petitioner's eligibility for assistance.

### **Applicability to other VAWA Housing Protections:**

Not every noncitizen victim who has been subjected to battery or extreme cruelty will qualify under these procedures. In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or Lawful Permanent Resident (LPR). PHAs may receive a petition at any time, but submissions will most likely be related to a request for VAWA protections pursuant to 24 CFR Part 5 Subpart L (e.g. with a request for an emergency transfer or family breakup resulting from domestic violence, dating violence, sexual assault, or stalking). See PIH 2016-09. Once a PHA receives a self-petition (INS Form I-360 or I-130) or INS Form 797, it is prohibited from requesting any additional information from the VAWA self-petitioner, other than what is required below to complete the verification.

### **Procedure:**

When a PHA receives a self-petition or INS Form 797 Notice of Action, the PHA must initiate verification in the SAVE System:

1. Enter self-petitioner name, alien ID number, and date of birth in the SAVE System.

The system will provide one of the following responses:

- If the SAVE system responds with a match, no further action is necessary at this time. Skip to step 3;
  - If the SAVE system responds “no match,” the PHA must complete the following additional steps. Continue to step 2.
2. Push the button for “Institute Additional Verification.” In the next screen, in the memo field, type “verify VAWA self-petition.” If the documentation provided by the applicant is a form I-130, type in the memo field “verify I-130.” Upload one of the following documents from applicant:
- I-360 VAWA Self-Petition
  - I-130 Family-Based Visa Petition
  - I-797 Notice of Action

Steps undertaken by DHS:

- receipt of I-130 or I-360
  - prima facie determination
  - approval of self-petition
3. Wait for a final determination from the SAVE System. You will receive one of two confirmations: (1) the VAWA self-petition is verified, in which case the applicant is immediately eligible for housing and no evidence of battery or extreme cruelty shall be requested or collected; (2) the I-130 is verified, in which case the petitioner submitting a family-based visa petition must provide to the PHA any evidence of “battery or extreme cruelty.” See 8 USC 1154(a)(1)(J). Housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of LPR status is made. If the final determination is to deny the VAWA self-petition or LPR petition, the PHA must alert the petitioner and take actions to terminate voucher assistance or evict the petitioner from public housing in accordance with the existing public housing requirements.

#### Effect on Other Laws (24 CFR 5.2011)

- Nothing in this subpart shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than

this section for victims of domestic violence, dating violence, sexual assault, or stalking.

- All applicable fair housing and civil rights statutes and requirements apply in the implementation of VAWA requirements. See 24 CFR 5.105(a).